

# **Area Education Agency Special Education Procedures**

July 1, 2011



## **Preface**

Iowa's area education agencies (AEAs) have a long history of sharing ideas, products and materials. On August 1, 2009 Iowa's AEAs released the first Area Education Agency Special Education Procedures. This manual represented the culmination of a significant AEA effort to work as a unified, state-wide system. The manual's purpose was, and continues to be, the creation and implementation of consistent, seamless, high quality, legally compliant special education procedures that communicate clear expectations across the state. This July 2011 edition advances the purpose of the August 2009 original and its revisions with updates, additional information and clarifications.

These procedures are intended to:

- Provide a vehicle to accomplish results for students with disabilities
- Drive positive meaningful, change
- Assure accurate data
- Meet the requirements of law and regulations
- Provide clarity for the professionals who implement the procedures
- Provide accountability to various audiences (government agencies, parents, working professionals, etc.)
- Assure legal protections for AEAs, schools and working professionals;
- Reduce the human and monetary costs of writing and revising procedures and of preparing for professional development in order to focus resources on instruction and interventions
- Provide a familiar process for parents who move and change AEAs
- Provide a familiar process for teachers who move and change AEAs
- Provide familiar documentation to AEAs and schools when students move
- Facilitate inter-agency communication with a common process and documentation
- Model a process that might transfer to other state-wide initiatives
- Facilitate consistent, high quality support and professional development to working professionals

## **Acknowledgements**

Many, many professionals from all area education agencies (AEAs) and from the Iowa Department of Education (IDE) contributed to the initial, August 2009 edition and to revised editions of this manual. Deserving of particular recognition are: those individuals who served as AEA Special Education Directors from the 2007-2008 school year to the current 2010-11 school year, Jeananne Schild (retired Special Education Director & chief editor, August 2009 edition) and Adrienne Ancell (Administrative Assistant, August 2009 edition: IDE) and the professionals who have served on the AEA Special Education Procedures Coordinating Council.

All Iowa AEAs are required to adhere to state and federal laws that prohibit discrimination in programs, activities, and employment practices.  
For specific information, contact your AEA.

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# Child Find

## Introduction

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### Citation

34 C.F.R. § 300.111  
Iowa Rules of Special Education 281—41.111; 281—41.312

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### Overview

IDEA regulations and Iowa *Rules* require that “all children with disabilities residing in the state, including children with disabilities who are homeless children or are wards of the state and children with disabilities who attend private schools, regardless of the severity of their disability, and who are in need of special education and related services, must be identified, located, and evaluated.” To that end, Iowa’s area education agencies (AEAs) were created by the legislature in order to “provide an effective, efficient, and economical means of identifying and serving children ... who require special education.”

The standards and procedures contained in this chapter assure that the determination of eligibility for special education and related services in each AEA and LEA within the state of Iowa:

- identifies and serves all children intended to be served under the *Individuals with Disabilities Education Act (IDEA)*;
  - conforms with state rules and federal regulations;
  - addresses initial placement and exit decision making;
  - meets the expectations outlined in *Special Education Assessment Standards, January 1996* that were adopted by the Iowa AEA Directors of Special Education Association;
  - supports the agreed upon precepts found in the *Special Education Eligibility Standards* document (July 2006, Iowa Department of Education);
  - defines a process to collect and consider data within the context of the individual’s unique educational circumstances related to -
    - Educational Progress,
    - Discrepancy, and
    - Instructional Needs;
  - reduces the disproportionate representation of culturally and linguistically diverse subgroups in special education; and
  - establishes both the existence of a disability and the need for special education services.
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# Expectations of General Education

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## Citation

Iowa Rules of Special Education 281—41.51(15); 281—41.111(2); 281—41.312; 281—41.313; 281—41.314

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## The General Education Context

The expectation of general education is that all students will attain the educational standards of the LEA.

Each LEA, in conjunction with the AEA, shall attempt to resolve the presenting problem or behaviors of concern in the general education environment prior to conducting a full and individual evaluation.

General education personnel, with occasional or incidental assistance from special education instructional and support personnel, provide:

- high quality general education instruction.
- targeted general education instruction or interventions to all students in need of such support and assistance.

**Note:** Receipt of additional support and assistance alone does not create suspicion that a child is an eligible individual.

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## Occasional or Incidental Assistance

High quality general education instruction is the responsibility of general education, including assistance to students who need additional support. [41.111(2)]

However, Iowa's rules recognize that special education personnel may have strategies, techniques, insights, and lesson plans that might be of assistance to general educators. That is the origin of the rule allowing special education personnel to provide "occasional and incidental" assistance to general educators or their students.

Iowa's rules recognize that district and AEA professionals are communities of scholar-practitioners, and professionals should be able to share knowledge and provide support to each other. The rule is a "safe harbor," allowing brief periods of assistance and collaboration based on the needs of the moment. The rule does not allow for continuous or in-depth involvement of special educators in general education unless specifically allowed by Iowa's rules.

If you have any questions regarding occasional and incidental support, consult with your AEA administrators and Iowa Department of Education written guidance.

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**Targeted  
General  
Education  
Instruction and  
Interventions**

Targeted general education instruction and interventions (general education interventions) are intended for students whose performance in the general education environment is of concern.

Targeted instruction or interventions must be:

- carefully matched to the underlying concerns regarding the student's performance and
  - implemented consistently as described in an intervention plan.
- 

**General  
Education  
Interventions:  
Specific  
Requirements  
[41.312]**

General education interventions shall include consultation with special education support and instructional personnel.

General education intervention activities shall be documented and include:

- measurable and goal-directed attempts to resolve the presenting problem or behavior of concern,
- communication with parents,
- collection of data related to the presenting problem or behavior of concern,
- intervention design and implementation, and
- systematic progress monitoring to measure the effect of the interventions. [defined in 41.51(15)]

The requirement of general education interventions **may be** met through a systematic problem solving process. Whenever intervention results are used in eligibility determinations, the intervention **must** meet the requirements of systematic problem solving. [41.313]

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# Systematic Problem Solving

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## **Systematic Problem Solving Defined**

Systematic problem-solving [41.313] is a set of procedures used in Iowa to examine the nature and severity of an educationally related problem. This process must be documented and minimally include:

- Description of problem
  - Data collection and problem analysis
  - Intervention design and implementation
  - Progress monitoring
  - Evaluation of intervention efforts
- 

## **Description of problem**

The presenting problem or behavior of concern shall be described in objective, measurable terms that focus on alterable characteristics of the individual and the environment.

The individual and environment shall be examined through systematic data collection.

The presenting problem or behaviors of concern shall be defined in a problem statement that describes the degree of discrepancy between the demands of the educational setting and the individual's performance.

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## **Data Collection and Problem Analysis**

A systematic, data-based process for examining all that is known about the presenting problem or behaviors of concern shall be used to identify interventions that have a high likelihood of success.

Data collected on the presenting problem or behaviors of concern shall be:

- used to plan and monitor interventions
- relevant to the presenting problem or behaviors of concern and
- collected in multiple settings using multiple sources of information and multiple data collection methods.

Data collection procedures shall:

- be individually tailored
  - be valid and reliable,
  - allow for frequent and repeated measurement of intervention effectiveness.
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**Intervention  
Design and  
Implementation**

Interventions shall be designed based on:

- the data collected and problem analysis,
- the defined problem,
- parent input, and
- professional judgments about the potential effectiveness of interventions.

The interventions shall be described in an intervention plan that includes:

- goals,
- strategies to address goal attainment,
- a progress monitoring plan,
- a decision-making plan for summarizing and analyzing progress monitoring data (e.g. comparison of data to 4 point rule), and
- responsible parties.

Interventions shall be implemented as developed and modified on the basis of objective data and with the agreement of the responsible parties.

The data derived from interventions that are not implemented as developed or properly modified cannot be used to make educational decisions.

For example, the intervention calls for 3 sessions of 20 minutes each week of additional assistance. Additional assistance is provided less than 3 times a week. The child does not make expected progress. The failure of the child to make expected progress cannot be used to make educational decision because the intervention was not implemented as designed.

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**Progress  
Monitoring**

Progress monitoring of targeted general education instruction or interventions is the systematic and on-going collection of data on student performance over time. It is important that progress monitoring is implemented consistently as described in an intervention plan.

Progress monitoring data is used to determine:

- the effectiveness of an individual's current instruction or intervention, and
- if changes in instruction or intervention need to be made.

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**Progress  
Monitoring:  
Monitoring  
Measures**

Progress monitoring data is systematically collected using instructionally sensitive measures that directly assess the intended outcomes of the general education instruction or intervention. Progress monitoring measures and data collection must be designed to assure that the data are reliable and valid for decision making.

When monitoring more intensive instruction or interventions, measures must be repeated frequently as intensive instruction or interventions require more frequent monitoring than general instruction.

The frequency of progress monitoring must be in direct relation to:

- the intensity of the problem being monitoring, and
  - the intensity of the intervention being implemented.
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**Progress  
Monitoring:  
Data Collection  
and Display**

Systematic progress monitoring shall include:

- regular and frequent data collection, and
- graphic display of the data.

Regular data collection is defined by the intervention plan. The frequency of data collection is based on the nature and severity of the problem.

Seven to 12 data points are required to make instructional decisions that are statistically valid. So, in order to have sufficient data points to make a valid instructional decision, data must be collected regularly and frequently.

If progress is monitored:

- daily, effectiveness of instruction may be determined after 2 weeks. (10 data points).
  - twice a week, effectiveness of instruction may be determined after 1 month. (8 data points).
  - once a week, effectiveness of instruction may be determined within 1 quarter (9 data points).
  - quarterly, every 9 weeks, effectiveness of instruction may not be determined, even after a year (4 data points).
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**Progress  
Monitoring:  
Decision Rules**

Decision rules for determining how to evaluate intervention effects based on progress monitoring data must be in place and consistently implemented.

Examples of Decision Making Rules include:

- 4 Point Decision Making Rule (e.g., “Given a minimum of two weeks of instruction and a minimum of seven data points following the initiation of or change in instruction, a four point rule will be applied: raising Jenny’s goal will be considered if four data points fall above the fluency goal line; changing Jenny’s program (instructional approach, services, supports, etc.) will be considered if four data point fall below the fluency goal line.”)
  - Trendline Analysis (e.g., “Given a minimum of four weeks of instruction and a minimum of eight data points following the initiation of or change in instruction, the trendline will be analyzed: raising Jared’s goal will be considered if the trendline is steeper than (i.e., above) the goal line; changing Jared’s program (instructional approach, services, supports, etc.) will be considered if the trendline is less steep than (i.e., below) the goal line.” **Note:** This example presumes a goal line with a positive slope (i.e., a goal for increased performance).
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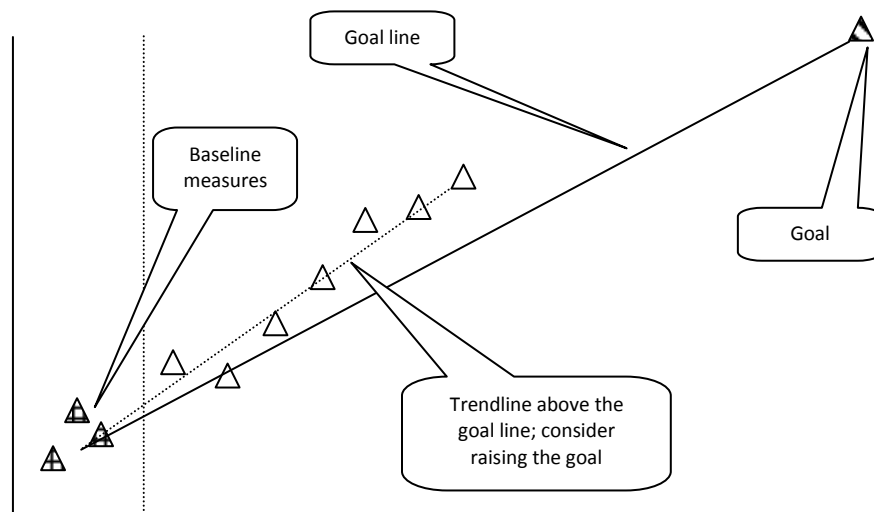
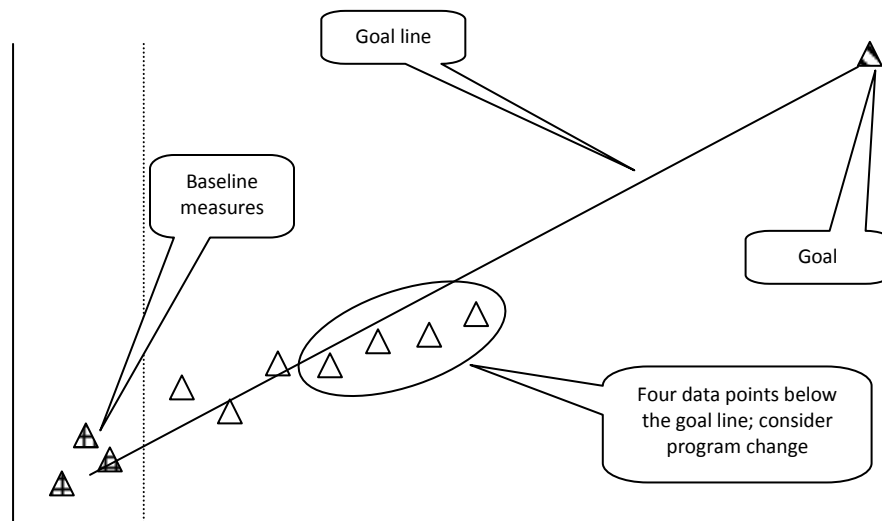
## Evaluation of Intervention Effects

The effectiveness of interventions shall be evaluated through a systematic procedure in which patterns of individual performance are analyzed and summarized. Decisions regarding the effectiveness of interventions focus on comparisons of student's progress with their initial level of performance and the target level of the intervention. This process includes data analysis and application of the decision rule.

Data should be used to answer the following questions:

- Is the data valid for decision making? (Was the intervention implemented as developed or properly modified? Was the data collected as regularly and frequently as required?)
- What does the decision rule tell us in relationship to the data (see examples, below)? Should the intervention be continued or modified?
- Is there a suspicion that the child has a disability?

## Evaluation of Intervention Effects: Applying Decision Rules



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**Suspicion of disability**

The determination that a child would be suspected of being a child with a disability requires the consideration of all relevant facts and circumstances as a whole.

The AEA or the AEA in conjunction with the district is responsible for determining if a child is a child with a disability.

When a child is suspected of having a disability by the AEA or the AEA in conjunction with the district, the AEA or district must get parental consent for an initial evaluation of the child.

Refer to the “Disability is Suspected” section that follows.

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**Parent Request for Evaluation**

Parents may request an evaluation at any time.

A full and individual initial evaluation, however, is required only if the child is suspected of having a disability. A *Disability Suspected Form* has been developed to guide teams through this decision making process. Given a parent request, teams are encouraged to examine all performance domains using the *Disability Suspected Form* to ensure appropriate consideration of multiple factors which may impact educational performance.

In cases where the parents request an evaluation and the team concludes that a disability is not suspected, the agency need not conduct an initial evaluation. Prior written notice must be provided to the parent, which includes an explanation of why the public agency refuses to conduct the evaluation and the information upon which this decision is based.

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## Disability Is Suspected

<b>Citation</b>	34 CFR §§ 300.111(c), 300.134(a)(1); 300.226(c), 300.304, 300.308-.309, and 300.311. Iowa Rules of Special Education 281-41.111(3)
<b>Evaluation required when disability is suspected</b>	At the point when a public agency (the AEA or the AEA in conjunction with the local education agency) suspects a child is a child with a disability, it must seek parental consent for an initial evaluation.
<b>Definition of an Educational Disability</b>	<p>A disability for purposes of the Individuals with Disabilities Education Improvement Act (IDEA, 2004) is referred to in this document as an “educational disability.” An educational disability requiring the services of Special Education is a skills deficit, a health or physical condition, a functional limitation, or a pattern of behavior that adversely affects educational performance. An educational disability 1) results in educational performance that is significantly and consistently different, diminished, or inappropriate when compared to the expectations for peers and 2) significantly interferes with: a) access to general education settings and opportunities, b) developmental progress, c) involvement and progress in the general curriculum, or d) interpersonal relationships or personal adjustment.</p> <p><i>Special Education Eligibility Standards, Iowa Department of Education, July 2006</i></p>
<b>Disability Depends on Specific Laws</b>	<p>There are many laws providing protections (e.g., civil rights) and services (e.g., public benefits, tax credits) to persons with disabilities. These laws do not have the same definitions of disability. A person may have a disability under one law and not have a disability under another law.</p> <p>If a child is determined to have a disability by another agency [Department of Human Services (DHS), Social Security, a private provider], that is important information; however, it is not binding under the IDEA.</p>

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## Disability Suspected, Continued

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### Context for Suspecting the Presence of a Disability

Children with disabilities and their families are entitled to timely evaluation and determination of eligibility for special education and support and related services. If it is *suspected* that a child's educational difficulties arise from a disability and that the child may need special education services, the AEA or AEA in conjunction with the local school is obligated to promptly seek parental consent to conduct a Full and Individual Initial Evaluation.

Attempts to resolve educational difficulties prior to the decision to conduct a full and individual initial evaluation are an important function and responsibility of general education in the general education setting. However, supplemental or intensive instruction delivered in the general education setting or delivered under Coordinated Early Intervening Services (CEIS) must not delay appropriate evaluation if the child is suspected of having a disability, regardless of the number of days, tiers, or levels in such interventions the child has completed, if any. As stated by the United States Department of Education concerning "pre-referral interventions", "the LEA cannot refuse to conduct the evaluation or delay the evaluation until the alternative strategies have been tried if the LEA suspects the child has a disability." *Letter to Anonymous*, 19 IDELR 498 (OSEP 1992). A child who has not failed, is making academic progress, and is passing from grade to grade may still be suspected of having a disability, [34 C.F.R. § 300.101(c)]; Iowa Admin. Code r. 281—41.101(3)].

Parents may request an evaluation at any time. A full and individual initial evaluation, however, is required only if the child is suspected of having a disability. A *Disability Suspected Form* has been developed to guide teams through this decision making process. Given a parent request, teams are encouraged to examine all performance domains using the *Disability Suspected Form* to ensure appropriate consideration of multiple factors which impact educational performance.

In cases where the parents request an evaluation and the team concludes that a disability is not suspected, the agency need not conduct an initial evaluation. Prior written notice must be provided to the parent, which includes an explanation of why the public agency refuses to conduct the evaluation and the information upon which this decision is based.

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## Disability Suspected, Continued

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### When is Disability Suspected?

1. A disability requiring the services of special education is suspected, triggering the need for a Full and Individual Initial Evaluation, when:
  - the child's educational performance falls persistently below state approved standards or typical developmental or behavioral expectations for age and grade level; and
  - the child's educational performance is unique when compared to others in the same setting (i.e., more characteristic of the actual performance of a very small subgroup of peers); and
  - there are no other more plausible explanations (e.g., lack of appropriate instruction or access, poor attendance, language or cultural differences) to account for the child's educational performance.
2. A disability is suspected, triggering the need for a Full and Individual Initial Evaluation, when:
  - the child is affected by a health or physical condition or a functional limitation that adversely affects educational performance (e.g., a progressive condition, a condition strongly associated with adverse effects on developmental progress or educational performance).
3. In rare and unusual cases, a disability is suspected, triggering the need for a Full and Individual Initial Evaluation, when there is:
  - a significant status change due to a health or medical condition, injury, etc. (e.g., a traumatic brain injury)
  - an obvious and immediate need for service that may exceed the capacity of general education to provide (e.g., progressive loss of sight requiring Braille and orientation and mobility instruction).

A medical or mental health diagnosis alone may be sufficient for suspecting a disability; however, it is not sufficient for determining eligibility for special education services. The impact of the diagnosis on educational performance must be determined through an analysis of discrepancy (health related), rate of progress (projected impact on), and instructional need (projected). Note: Additional guidance may be found in the *Medical or Mental Health Diagnoses and Special Education Eligibility Technical Support Paper* (See pages 50-51).

If any of these conditions (1, 2, or 3) are evident, it is reasonable to suspect that a disability exists. Parental consent to conduct a Full and Individual Initial Evaluation must be sought.

If none of these conditions (1, 2, or 3) are evident, it is reasonable to assume that a disability is not suspected. If the parent requested an evaluation a Prior Written Notice of the decision to NOT conduct an evaluation must be provided to the parent.

**Note:** The *Disability Suspected Form* will guide teams through this decision making process.

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## Disability Suspected, Continued

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### Disability Suspected Birth-3

For a toddler eligible for Early ACCESS, the Early ACCESS Service Coordinator must initiate a transition planning meeting at least 3 months and up to 9 months prior to the child's third birthday with approval of the family. AEA staff knowledgeable about Part B special education collaborate with IFSP Teams in planning the transition. The Part C federal regulations outline two transition planning pathways for children and their families:

- 1) determine whether the child is suspected of having a disability as defined by IDEA Part B after age three; or
- 2) choose other community services after age three.

The IFSP Teams, in collaboration with the AEA special education staff, analyze and discuss ongoing child and family assessment data to determine the pathway the Early ACCESS team will follow. This team must determine if the child is suspected of having a disability and if a Full and Individual Initial evaluation is warranted. A disability is suspected when the child's current performance falls below typical developmental or behavioral expectations, is unique when compared to peers, and no other more plausible explanation is evident.

For children referred by Early ACCESS in which informed parental consent for Full and Individual Initial Evaluation is obtained, the team must meet the following Part B federal requirements and timelines:

- complete the *Full and Individual Initial Evaluation* and hold the meeting to determine eligibility prior to the child's third birthday; **and** on or before the 60th calendar day following receipt of the signed *Consent for/Notice of Full and Individual Initial Evaluation* by the public agency; and
- implement an Initial IEP for children eligible for special education prior to the child's third birthday.

Note: The earliest age an IEP may be implemented for a child who is being served in Early ACCESS is 2 years 9 months. However, if in the rare and unusual circumstance that an IEP is considered for a child younger than 2 years 9 months, the team must contact the AEA Director of Special Education for approval.

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### Team Membership

The team membership for completing the Disability Suspected Form, includes at a minimum, a representative from the local education agency (LEA) and the Area Education Agency (AEA) who have direct knowledge of the child or the interpretation of performance data. Parent participation is strongly encouraged, but not required. Additional members may be included who have direct knowledge of the child (e.g., Title 1, Reading Recovery specialist, school guidance counselor, Early ACCESS Service Coordinator).

If the child is in a preschool, Head Start, or other similar setting for children of preschool age, a representative from that agency who has knowledge of the child will be considered "a representative from the local school (LEA)".

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**Sources of  
Information  
when  
considering if a  
disability is  
suspected**

A team including staff from the LEA and AEA, along with the parents, considers and analyzes available information about the child. The team may consider the following data sources, as well as others:

- formative assessment or other screening information;
- performance monitoring from supplementary instruction;
- educational, health and family history;
- reports from outside providers;
- observations;
- progress toward achieving IFSP outcomes,
- interviews with teachers, parents, child and others familiar
- with the individual; and
- additional student records.

Data gathered may all be used in guiding the team's responses on the Disability Suspected Form.

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# Written Parental Consent for Evaluation

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## Citation

34 C.F.R. §§ 300.9 (defining consent), 300.300 (requiring consent).  
Iowa Rules of Special Education 41.9, 41.300

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## Informed Parental Consent Required

Prior to conducting a full and individual initial evaluation, informed parental consent must be obtained. This occurs when the public agency (the AEA or the AEA in conjunction with the local education agency), suspects that the child may have a disability and need for special education and related services. Parental consent is documented with a signature on the *Consent for/Notice of Full and Individual Initial Evaluation* form.

As long as a parent has the legal authority to make educational decisions for the child (married parents, divorced parents when each retain decision making authority, etc.), the school or AEA *must accept either parent's* consent or revocation of consent.

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## Definition of Informed Consent:

Informed Consent means:

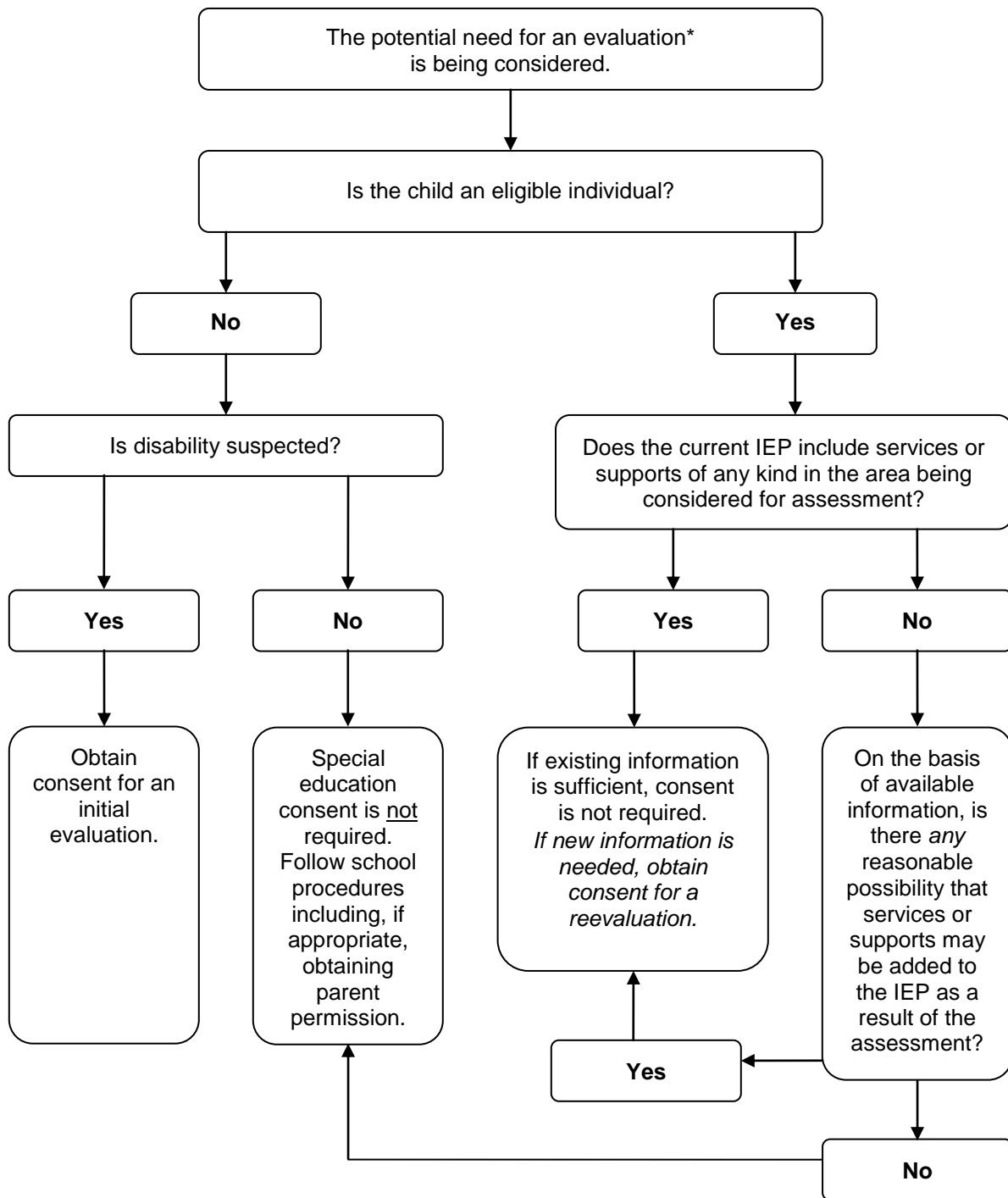
1	The parent has been fully informed of all information relevant to the activity (evaluation) for which consent is sought, in his or her native language, or other mode of communication.
2	The parent understands and agrees in writing to the carrying out of the activity (evaluation) for which his or her consent is sought, and the consent describes that activity (evaluation).
3	The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.
4	If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

**Note:** Prior to obtaining consent, the evaluation team, including the parents, must determine if any additional assessments are needed and procedural safeguards must be reviewed with the parent. Details related to these activities are found in later sections of this chapter.

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*Continued on next page*

## When is Special Education Consent for an Evaluation Needed?



\* *Evaluations* do not include screening for instructional purposes (i.e., screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation) or group screenings (e.g., hearing, vision). Special education consent **is not** required for these screening purposes.

## Consent for Evaluation, Continued

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### **Special Circumstances Regarding Parental Consent**

Parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation; or administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children. Before conducting a Full and Individual Initial Evaluation, however, reasonable attempts must be made to obtain written parental consent.

1. If the parent of a child does not provide consent for initial evaluation or if the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing procedural safeguards. The public agency does not violate its obligations to find and evaluate children suspected of having disabilities if it declines to pursue the evaluation. Prior Written Notice must be provided to the parents indicating the decision to NOT pursue the evaluation.
2. If a parent of a child who is receiving competent private instruction or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the parent fails to respond to a request to provide consent, the public agency may NOT use the consent override provisions of the due process procedures, and the public agency is not required to consider the child as eligible for services.
3. If the parent consents and then revokes consent once the evaluation has begun, the revocation is not retroactive. Prior Written Notice documents the team's decision to honor the parent request to end the evaluation. The eligibility determination worksheet must be completed and the IMS Data Summary form (or other designated paperwork) submitted to IMS. Any data gathered to the point of consent revocation may be summarized and placed in the student's educational record.
4. For initial evaluations only, if the child is a ward of the State (e.g., in foster care or in the custody of DHS) and is not residing with his or her parent, the public agency is not required to obtain informed consent from the parent if:
  - despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child;
  - the rights of the parents have been terminated in accordance with State law; or
  - the rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

In situations described in the first or second bullets, the AEA must appoint a surrogate parent, who will decide whether or not to give consent. Only a person meeting the definition of parent may consent to beginning services.

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## Consent for Evaluation, Continued

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### Special Circumstances Regarding Parental Consent (continued)

5. If a child who has reached the age of majority requests an evaluation, the public agency must consider this request the same as if a parent requests the evaluation. A full and individual initial evaluation is required only if the child is suspected of having a disability. The evaluation team should complete the *Disability Suspected Form* to guide their decision making. If the team concludes that a disability is not suspected and that an initial evaluation is not warranted, *Prior Written Notice* must be provided to the individual, since he or she has reached the age of majority, including an explanation of why the public agency refuses to conduct the evaluation and the information upon which this decision is based. If the team concludes that an evaluation is warranted because a disability is suspected, the individual may sign the *Consent for/Notice of Full and Individual Initial Evaluation*.

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### Procedural Safeguards

The public agency (the AEA or the AEA in conjunction with the local education agency) requesting the evaluation will review with the parents and provide a copy of the *Procedural Safeguards Manual for Parents*. A summary of the procedural safeguards may be used to *assist* in explaining and reviewing parental rights however must not be used in place of a complete copy of the *Procedural Safeguards Manual for Parents* document.

The public agency (AEA/LEA) requesting the evaluation will complete the *Consent for/Notice of Full and Individual Initial Evaluation* form. The consent must be presented to the parents in a language that they understand.

Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services.

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### Evaluation must be comprehensive

The evaluation team must ensure that the child is assessed in all areas related to the suspected disability, and that the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to a particular disability or performance domain. For preschool children the evaluation must include information addressing the early childhood outcome areas.

Iowa Rules state that evaluations must be comprehensive including, if applicable, the collection of additional information needed to design interventions intended to resolve the presenting problem, behaviors of concern, or suspected disability. This includes, if appropriate, assessment or evaluation of health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, adaptive behavior and motor abilities. This is not an exhaustive list of areas that may be assessed. Decisions regarding the areas to be assessed are determined by the suspected needs of the child.

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## Consent for Evaluation, Continued

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### Iowa Performance Domains

The assessment areas for the comprehensive evaluation can be summarized within seven performance domains: academic, behavior, health, physical, hearing/vision, adaptive and communication. Evaluation in these performance domains addresses the federal disability categories (refer to Eligible Individual section). Evaluation teams review available and current information in each of the performance domains to determine whether the area warrants further evaluation or can be ruled out as a relevant contributing factor to the presenting problem or behavior of concern. These performance domains serve three purposes.

- They represent areas of skill and function that are inherent in the thirteen federally designated disability categories.
  - By evaluating or ruling out each of the domains, Iowa's AEAs assure that all children who have disabilities and need special education and support and related services are identified.
  - The performance domains provide a framework for consideration of the child's instructional needs.
- 

### Performance Domains

The Iowa Performance Domains are defined as follows.

Domains	Description
Academic	Grade level achievement of standards related to listening comprehension, oral expression, basic reading skills (reading comprehension & fluency), math calculation, mathematical problem solving, and written expression.
Behavior	Awareness of self, identification and expression of emotions, self-regulation, and interaction with others.
Physical	Gross motor skills, fine motor skills and mobility for learning, living and work.
Health	General condition of the body or mind, especially in terms of the presence or absence of illness, injury or impairments.
Hearing/Vision	The ability to perceive sound and/or the ability to see.
Adaptive Behavior	Everyday living skills (e.g., dressing, eating, toileting), work skills, or school functioning skills (e.g., meeting timelines, organization of materials) that a child learns in the process of adapting to his/her surroundings.
Communication	Receptive and expressive language (form, content or use). This includes, but is not limited to, language (social communication), vocabulary, speech sound production, voice (nasality), or fluency.

Attention to each of the performance domains assures that the evaluation process is sufficiently comprehensive to identify all of the child's special education and related service needs.

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## Consent for Evaluation, Continued

### Academic Domain

Academic performance in Iowa's K-12 system is defined as grade level achievement of the general curriculum, including the district's implementation of the Iowa Core Curriculum, related to listening comprehension, oral expression, basic reading skills (phonics, phonemic awareness, fluency), reading comprehension (vocabulary and comprehension)), math calculation, mathematical problem solving, and written expression. For Early Childhood (ages 3-5) academic performance is achievement of the Iowa Early Learning Standards related to skills for mathematics, scientific reasoning, problem solving, early literacy, and early writing.

Further evaluation is warranted in this domain when there is evidence of discrepancy and limitation of progress which persist despite attempted assistance and supplemental instruction beyond the core in one or more of the areas listed above.

#### Guiding Questions:

- What evidence indicates the child has received appropriate core instruction in listening comprehension, oral expression, basic reading skills (reading comprehension & fluency), math calculation, mathematical problem solving, and written expression?
- For preschool children what evidence indicates the child has received appropriate core instruction and activities in the Iowa Early Learning Standards provided at home or in early childhood settings?
- What evidence indicates the child has received appropriate supplemental instruction including research based intervention?
- What evidence indicates the academic performance and progress discrepancy are not the result of limited English proficiency, socio-economic status, ethnic, racial, cultural or familial differences, poor attendance or mobility?

#### Documentation:

The *Consent for/Notice of Full and Individual Initial Evaluation* form requires an indication of the team's determination of concerns in each of the performance domains.

- First, the team must determine which of the performance domains will be evaluated. The Academic Domain is selected from the left column on the Consent for/Notice of Full and Individual Initial Evaluation form if review of available data, interviews with others and observation information suggest that this is an area of concern.

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## Consent for Evaluation, Continued

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### **Academic Domain** (continued)

- The team must then determine if sufficient information is available to answer the guiding questions above or if additional assessment is warranted in this domain area. The Academic Domain is selected from the right column on the Consent for/Notice of Full and Individual Initial Evaluation form if additional assessments requiring parental consent are needed as part of the evaluation.

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## Consent for Evaluation, Continued

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### **Behavior Domain**

Behavior as a performance domain means awareness of self, identification and expression of emotions, self-regulation, and interaction with others.

Further evaluation is warranted in this domain when there is evidence of discrepancy and limitation of progress which persist despite attempted assistance and supplemental instruction beyond the core in one or more of the areas listed above.

#### **Guiding Questions:**

- What evidence indicates the student has received appropriate instruction in awareness of self, identification and expression of emotions, self-regulation, and interaction with others? (e.g., Love and Logic, Character Counts, Body Basics, and OLWEUS Bullying)
- What evidence indicates the student has received appropriate supplemental instruction (systematic and individualized strategies for achieving social and learning outcomes) and positive behavior supports based on a function of the behavior?
- What evidence indicates the behavior performance and progress discrepancy are not the result of limited English proficiency, socio-economic status, ethnic, racial, cultural or familial differences, poor attendance or mobility?

#### **Documentation:**

The *Consent for/Notice of Full and Individual Initial Evaluation* form requires an indication of the team's determination of concerns in each of the performance domains.

- First, the team must determine which of the performance domains will be evaluated. The Behavior Domain is selected from the left column on the Consent for/Notice of Full and Individual Initial Evaluation form if review of available data, interviews with others and observation information suggest that this is an area of concern.
- The team must then determine if sufficient information is available to answer the guiding questions above or if additional assessment is warranted in this domain area. The Behavior Domain is selected from the right column on the Consent for/Notice of Full and Individual Initial Evaluation form if additional assessments requiring parental consent are needed as part of the evaluation.

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## Consent for Evaluation, Continued

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**Physical Domain** The physical performance domain includes gross motor skills, fine motor skills and mobility for learning, living and work.

Further evaluation is warranted in this domain when there is evidence of discrepancy and limitation of progress which persist despite attempted assistance and supplemental instruction beyond the core in one or more of the areas listed above.

### **Guiding Questions:**

- What evidence indicates the student has received appropriate instruction and supports in the areas of gross motor, fine motor and mobility?
- What evidence indicates the student has received appropriate supplemental instruction and supports to address their physical needs?
- What evidence indicates the student's physical skills are adversely impacting educational performance, or access to and participation in the educational environment or setting?

### **Documentation:**

The *Consent for/Notice of Full and Individual Initial Evaluation* form requires an indication of the team's determination of concerns in each of the performance domains.

- First, the team must determine which of the performance domains will be evaluated. The Physical Domain is selected from the left column on the Consent for/Notice of Full and Individual Initial Evaluation form if review of available data, interviews with others and observation information suggest that this is an area of concern.
- The team must then determine if sufficient information is available to answer the guiding questions above or if additional assessment is warranted in this domain area. The Physical Domain is selected from the right column on the Consent for/Notice of Full and Individual Initial Evaluation form if additional assessments requiring parental consent are needed as part of the evaluation.

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## Consent for Evaluation, Continued

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### Health Domain

Health is the general condition of the body or mind, especially in terms of the presence or absence of illness, injury or impairments. Further evaluation is warranted in this domain when there is evidence of a health condition that adversely affects a child's educational performance.

#### Guiding Questions:

- What evidence exists that the student has a health condition (illness, injury or impairment)?
- What evidence indicates the student's health condition is adversely impacting educational performance, or access to and participation in the educational environment or setting?

#### Documentation:

The *Consent for/Notice of Full and Individual Initial Evaluation* form requires an indication of the team's determination of concerns in each of the performance domains.

- First, the team must determine which of the performance domains will be evaluated. The Health Domain is selected from the left column on the Consent for/Notice of Full and Individual Initial Evaluation form if review of available data, interviews with others and observation information suggest that this is an area of concern.
  - The team must then determine if sufficient information is available to answer the guiding questions above or if additional assessment is warranted in this domain area. The Health Domain is selected from the right column on the Consent for/Notice of Full and Individual Initial Evaluation form if additional assessments requiring parental consent are needed as part of the evaluation.
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### Hearing/Vision Domain

The ability to perceive sound and/or the ability to see.

Further evaluation is warranted in this domain when there is evidence of a vision or hearing loss that adversely affects a child's educational performance.

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## Consent for Evaluation, Continued

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### Hearing/Vision Domain (continued)

#### Guiding Questions:

- What evidence exists that the student has a vision loss?
- What evidence exists that the student has a hearing loss?
- What evidence indicates the student's vision or hearing loss is adversely impacting educational performance, or access to and participation in the educational environment or setting?

#### Documentation:

The *Consent for/Notice of Full and Individual Initial Evaluation* form requires an indication of the team's determination of concerns in each of the performance domains.

- First, the team must determine which of the performance domains will be evaluated. The Hearing/Vision Domain is selected from the left column on the Consent for/Notice of Full and Individual Initial Evaluation form if review of available data, interviews with others and observation information suggest that this is an area of concern.
  - The team must then determine if sufficient information is available to answer the guiding questions above or if additional assessment is warranted in this domain area. The Hearing/Vision Domain is selected from the right column on the Consent for/Notice of Full and Individual Initial Evaluation form if additional assessments requiring parental consent are needed as part of the evaluation.
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### Communication Domain

Communication as a performance domain means demonstrating receptive and expressive language (form, content or use). This includes, but is not limited to, language (social communication), vocabulary, speech sound production, voice (nasality), or fluency. This performance domain is aligned with the Iowa Core Curriculum Essential Components for Literacy, including speaking and listening skills.

Further evaluation is warranted in this domain when there is evidence of discrepancy and limitation of progress which persist despite attempted assistance and supplemental instruction beyond the core in one or more of the areas listed above.

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## Consent for Evaluation, Continued

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**Communication  
Domain**  
(continued)

**Guiding Questions:**

- What evidence indicates the student has received appropriate core and supplemental instruction in speaking and listening skills?
- What evidence indicates the student has received appropriate core and supplemental instruction including research based intervention for language-based activities, comprehending information presented orally or conveying information?
- What evidence indicates the communication performance and progress discrepancy are not the result of limited English proficiency, socio-economic status, ethnic, racial, cultural or familial differences, poor attendance or mobility?
- What evidence indicates the student has received appropriate core and supplemental instruction including research based intervention to use language and vocabulary appropriate to the message and the audience?
- What evidence indicates the student has received appropriate core and supplemental instruction including research based intervention to apply active listening strategies in a variety of settings to focus, think and respond verbally and nonverbally?

**Documentation:**

The *Consent for/Notice of Full and Individual Initial Evaluation* form requires an indication of the team's determination of concerns in each of the performance domains.

- First, the team must determine which of the performance domains will be evaluated. The Communication Domain is selected from the left column on the Consent for/Notice of Full and Individual Initial Evaluation form if review of available data, interviews with others and observation information suggest that this is an area of concern.
- The team must then determine if sufficient information is available to answer the guiding questions above or if additional assessment is warranted in this domain area. The Communication Domain is selected from the right column on the Consent for/Notice of Full and Individual Initial Evaluation form if additional assessments requiring parental consent are needed as part of the evaluation.

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## Consent for Evaluation, Continued

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### **Adaptive Behavior**

Adaptive functioning as a performance domain means demonstrating everyday living skills (e.g. dressing, eating, toileting), work skills, or school functioning skills (e.g. meeting timelines, organization of materials) that a student learns in the process of adapting to his/her surroundings.

Further evaluation is warranted in this domain when there is evidence of discrepancy and limitation of progress which persist despite attempted assistance and supplemental instruction beyond the core in one or more of the areas listed above.

#### **Guiding Questions:**

- What evidence indicates that the student's background of developmental support (parenting, childcare, early childhood educational opportunities) is similar to peers?
- What evidence indicates that the cultural and social expectations (e.g., expectations for self-care) of this student related to adaptive behavior skills are similar to peers?
- What evidence indicates the student has received appropriate core and supplemental instruction in adaptive skills such as, social problem solving and daily living skills as well as organization, time management or other work related skills?
- What evidence indicates the adaptive performance and progress discrepancy are not the result of limited English proficiency, socio-economic status, ethnic, racial, cultural or familial differences, poor attendance or mobility?

#### **Documentation:**

The *Consent for/Notice of Full and Individual Initial Evaluation* form requires an indication of the team's determination of concerns in each of the performance domains.

- First, the team must determine which of the performance domains will be evaluated. The Adaptive Behavior Domain is selected from the left column on the Consent for/Notice of Full and Individual Initial Evaluation form if review of available data, interviews with others and observation information suggest that this is an area of concern.
  - The team must then determine if sufficient information is available to answer the guiding questions above or if additional assessment is warranted in this domain area. The Adaptive Behavior Domain is selected from the right column on the Consent for/Notice of Full and Individual Initial Evaluation form if additional assessments requiring parental consent are needed as part of the evaluation.
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# Full and Individual Evaluation

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## Citation

34 C.F.R. § 300.304(c)(4), (6)  
Iowa Rules of Special Education 41.301(6)"d", 41.304(3)

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## Discussion

The purpose of the full and individual initial evaluation is two-fold:

- a) to determine the educational interventions required to resolve the presenting problem, behavior of concern, or suspected disability, including whether the educational interventions are special education (exceeds capacity of general education resources alone); and
- b) to determine if the individual is eligible for special education. In Iowa, an individual is eligible for special education when there is:
  1. a disability (determined by assessing rate of educational progress and discrepancy from expectations); and
  2. an instructional need that can only be met through the use of special education resources.

The evaluation consists of procedures by which the team gathers sufficient data to identify the instructional needs of an individual and determine the presence of a disability. Specifically, the Full and Individual Initial Evaluation gathers and summarizes information around four key concepts: the exclusionary factors, progress, discrepancy, and need. The *steps* in conducting the Full and Individual Initial Evaluation are:

1	Collect any information not already available to rule out the impact of exclusionary factors (e.g., lack of appropriate instruction, Limited English Proficiency, socio-economic or cultural circumstances, attendance) on student performance.
2	Collect any information not already available about discrepancy, progress (rate of growth) and need.
3	Summarize all of the information to be used for eligibility determination in the <i>Educational Evaluation Report</i> .
4	Set up the Eligibility Determination Meeting where team members will review that data collected during the Full and Individual Initial Evaluation.

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## 60 Calendar Day Timeline

Once informed parental consent is obtained, the team must complete the evaluation and hold the meeting to determine eligibility on or before the 60th calendar day following receipt of the signed *Consent for/Notice of Full and Individual Initial Evaluation* by the public agency. The date the Consent is received by the public agency should be noted on the form and submitted for data entry into IMS.

Note: For children transitioning from Early ACCESS the team must complete the evaluation and hold the meeting to determine eligibility within 60 days **and** prior to the child's third birthday.

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## Full and Individual Evaluation, Continued

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### **Assessment Tools and Strategies**

In conducting the full and individual initial evaluation, the evaluation team must use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information including information provided by the parent to make decisions. The team may not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability. Iowa has adopted four assessment methods (Review, Interview, Observe, and Test/Task - RIOT) each of which include multiple possible sources of information which examine instruction, curriculum, environment and learner supports (ICEL). The *Assessment Methods and Sources Matrix* (see pages 52-53) provides additional detail.

Assessment should be functional in nature so that the resulting data can be linked to designing and evaluating interventions that address the individual's area(s) of concern. Information from the functional assessment will inform the *Individualized Educational Program (IEP)* for the child if found eligible for special education. Functional assessment is multi-dimensional and utilizes measures that are specific and direct and have a clear connection between the questions being answered and the data being gathered.

When a test is used in decision making, the test must be technically sound, selected and administered so as not to be discriminatory on a racial or cultural basis, administered in the child's native language or other mode of communication, in a form most likely to yield accurate information on what the child knows and can do, and be a valid and reliable measure for the stated purpose. Each test should be administered by trained and knowledgeable personnel and administered in accordance with instructions.

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### **Evaluation Team Membership**

Members of this team include: parents of the individual being evaluated; the general education teacher(s); a representative of the LEA or AEA who is qualified to provide or supervise the provision of specially designed instruction and who is knowledgeable about general education curriculum and the availability of the resources of the LEA; any individual completing various components of the evaluation as well as interpret the instructional implications of the evaluation results; other individuals with knowledge or special expertise regarding the eligible individual, as appropriate; and the individual being considered for eligibility as appropriate.

## Exclusionary Factors Considered

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### Citation

34 C.F.R. § 300.306(b)(1)(i-iii)  
Iowa Rules of Special Education 41.306(2)

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### Discussion

Evaluation teams examine relevant information through RIOT methods to rule out whether a child's performance difficulties are primarily the result of a lack of appropriate instruction, socio-economic variables, cultural differences or poor attendance.

A child must not be determined to be a child with a disability if the team determines that the educational difficulty is primarily related to:

- Lack of appropriate instruction in reading, including the essential components of reading instruction (Phonological Awareness, Phonics, Fluency, Vocabulary, and Comprehension)
- Lack of appropriate instruction in math
- Limited English proficiency

Evaluation teams should also consider if the determinant factors for the child's educational performance is primarily related to other ecological variables, including

- socio-economic status,
  - cultural or ethnic differences, or
  - school attendance or mobility (multiple moves, different districts).
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## Exclusionary Factors, Continued

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### **Lack of Appropriate Instruction, Attendance and Mobility**

To ensure that underachievement in a child suspected of having a disability is not primarily due to lack of appropriate instruction in reading or math, or due to inconsistent instruction based on attendance and/or mobility the team must consider data that demonstrate:

- that prior to, or as a part of, the evaluation process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel;
- that during the instructional intervention the student was present on a regular basis for instruction; and
- repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during such instruction.

The procedure for determining whether or not lack of instruction is a contributing factor has three components.

1. Gather and review class-wide data on all students, and attendance data of the student being evaluated. If most students in the classroom are achieving or are progressing at rates different from the child being evaluated, and the child being evaluated has been in school within the same school district, lack of instruction is not a likely factor and can be ruled out as a contributing factor.
2. Gather and review progress monitoring data from supplemental instruction on similarly performing students. If many students in the group receiving supplemental instruction are progressing at a faster rate than the child being evaluated, then lack of instruction is not likely a contributing factor.
3. Implement an intervention either prior to or as part of the evaluation. The best “test” of whether or not lack of instruction is a causative factor is to implement instruction systematically and evaluate its effect. If, during supplemental intervention (either prior to or as part of the Full and Individual Initial Evaluation), the child’s performance improves to the point that short-term intervention will result in performance consistent with grade level expectations, then instruction is likely a causal factor. The child cannot be determined to be a child with a disability. It is appropriate for supplemental instruction to continue in the general education setting.

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## Exclusionary Factors, Continued

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### Limited English Proficiency

The context in which evaluation and eligibility decisions are made includes the consideration of linguistic variables unique to the individual. For example, if an individual's performance does not fall below the expectations of peers with similar linguistic backgrounds, the individual's needs are not likely due to a disability requiring special education.

When the family's primary language is not English, a member of the school team who is proficient in the family's language or a trained interpreter should conduct interviews with the family. For students whose primary language is not English, communication deficits only constitute a disability if the communication problem is present in both English and the individual's primary language. During the eligibility decision-making process, the evaluation team must rule out language and acculturation as the primary reason for performance deficits. An assessment of the individual's English language proficiency may be needed in order to develop appropriate interventions or evaluate the individual's response to interventions and to make eligibility decisions. It is important to have someone on the team who is knowledgeable about the student's linguistic diversity and who has the skills to help differentiate between language acquisition and disability characteristics. The team may find it helpful to review and discuss the following questions:

- How is the student's performance when compared to others of like linguistic backgrounds?
- Are the materials and methods used in the evaluation to measure progress, discrepancy and need non-discriminatory?
- Have assessments been administered in the language and form most likely to yield accurate information on the student's performance?
- Did the interventions from which progress data is gathered adequately address linguistic variables impacting the student's performance?
- What is the student's performance on measures of linguistic aptitude (e.g. Basic Interpersonal Communication Skills, Cognitive Academic Language Proficiency)? Does the student speak and understand the language of instruction?
- Based on the information gathered and analyzed with respect to this student, does the team feel that the individual's educational performance is primarily the result of linguistic variables?

If it is determined that the child's performance is primarily a function of limited English proficiency, the team will document this conclusion on the *Educational Evaluation Report*. At the Eligibility Determination meeting the exclusionary factors will be discussed and the student will be determined "not eligible" for special education services. Documentation of the eligibility determination must be provided to parents on the *Prior Written Notice* and the IMS Data Summary form (or other designated paperwork) must be submitted to IMS.

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## Exclusionary Factors, Continued

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### **Ecological Variables of Socio-economic Status**

The context in which suspected disability and eligibility decisions are made includes the consideration of the socio-economic factors unique to the individual. To ensure that socio-economic status is not a primary reason for underachievement in a child suspected of having a disability, AEA and LEA staff must be aware of the impact of socio-economic variables on learning and take proactive steps to ensure that students from low SES backgrounds are provided the necessary supports, instruction and enrichment activities to ensure academic success.

During the eligibility decision-making process, the evaluation team must rule out economic factors as the primary reason for performance deficits. It is important to have someone on the team who is knowledgeable about the effects of socio-economic variables on educational performance. The team may find it helpful to review and discuss the following questions:

- Are the child's needs a result of, or in part related to, a lack of having similar opportunities to learn as peers?
- What social contexts (e.g. health, nutrition, safety, mobility) may be impacting educational performance?
- What strategies have been employed to assist learning (e.g. modeling, scaffolding, strength based instruction, school based opportunities for drill/practice) have been provided? Describe the impact.
- What behavioral strategies have been used to foster resilience, positive responses, motivation and engagement? Describe the impact.
- Is the child's pattern of learning similar to other students with similar socio-economic status?

Teams are encouraged to gather and analyze educational history, ecological, contextual, instructional and behavioral information during the full and individual initial evaluation to ensure that students from low SES are not over-identified for special education and related services. Considering the elements of lack of appropriate instruction may provide teams with additional guidance.

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## Exclusionary Factors, Continued

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### **Ethnic, Racial, Cultural, and Familial Variables**

The context in which eligibility decisions are made includes the consideration of ethnic, racial, cultural, and/or familial variables unique to the individual. If the team determines that such factors might explain the individual's lack of academic achievement or functional performance, further inquiry needs to occur to determine their impact. It is important to have someone on the evaluation team (or who has consulted with the team) who is knowledgeable about the student's ethnic, racial, cultural or familial diversity and who has the skills to help differentiate between cultural differences and learning problems. To ensure that ethnic, racial, cultural or familial factors are not the primary reason for underachievement in a child suspected of having a disability, the team might find it helpful to review and discuss the following questions:

- How is the individual's performance compared to others of similar backgrounds?
- Are the materials or techniques used to measure the child's performance non-discriminatory?
- Did interventions address cultural, racial, ethnic or familial variables impacting student performance?
- Are the school curriculum, instruction and climate respectful of the values, beliefs, customs and traditions of the child and his/her family?
- Is the child's pattern of learning similar to other students with similar cultural, racial, ethnic or familial ecological variables?

Based on the information gathered, analyzed, and documented, the team must determine if the individual's educational performance is primarily the result of cultural, racial, ethnic, or familial variables or the result of a disability. If it is determined that the educational performance is primarily a result of any of these factors, the team will document this conclusion on the *Educational Evaluation Report*. At the Eligibility Determination meeting the exclusionary factors will be discussed and the student will be determined "not eligible" for special education services. Documentation of the eligibility determination must be provided to parents on the *Prior Written Notice* and the IMS Data Summary Report (or other appropriate documents) must be submitted to IMS for processing.

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## Exclusionary Factors, Continued

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**Factors Not a  
Primary Reason  
for Educational  
Performance**

After reviewing available information and determining that the student's lack of educational performance is not caused by one or more of the exclusionary factors, the team documents the information gathered in the Ecological Factors section of the *Educational Evaluation Report* and continues with the evaluation to address progress, need and discrepancy.

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# Documenting Progress, Discrepancy & Need

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## Citations

Iowa Rules of Special Education 41.306(3);  
*Special Education Eligibility Standards*, Iowa Department of Education, July 2006

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## Progress, Discrepancy and Need Evaluation

The full and individual initial evaluation documents the examination of an individual's performance over time (progress), performance as compared to grade level expectations or developmental norms (discrepancy) at the point in time the evaluation is conducted, and needs in the context of the individual's unique circumstances. The evaluation also attempts to identify those circumstances under which the individual experiences the most growth or success.

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## Progress Discussion

The full and individual initial evaluation uses a child's response-to-intervention or instruction data to support the conclusion that a disability is present. Specifically, the individual's rate of progress is compared to the expected rate of progress for typically developing peers. Progress data provides objective evidence that an individual's performance over time and during targeted instruction/intervention is substantially different than the rate of progress for typical peers.

Analysis of the rate of progress data includes a comparison of the:

- individual's rate or slope of improvement during intervention;
- amount of resources necessary to ensure a positive slope (growth, progress) that differ from those provided within the general education context; and
- targeted intervention rate of progress data, along with other convergent data regarding the individual's rate of progress.

There may be times when targeted interventions conducted prior to consent, have generated sufficient data to answer the progress questions. If so, further documentation of the progress components may not be necessary. For purposes of the initial evaluation, the team may simply be documenting in the *Educational Evaluation Report*, data which answers the progress components and summarizes the analysis of progress data for decision making.

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## Progress, Discrepancy & Need, Continued

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### Progress Determination for Health, Sensory and/or Physical Impairments

In rare and unusual cases, educational teams may not have intervention data and it may not be needed in order for the team to determine that the child has a disability. These include, and are not limited to:

- a significant status change due to a health or medical condition, injury, etc.
- an obvious and immediate need for service that is only available through special education; or
- the child is affected by a health or physical condition or a functional limitation that has a high probability of adversely affecting educational performance (e.g., a progressive condition, a condition strongly associated with adverse effects on developmental progress or educational performance).

In such cases the evaluation team should document in the *Educational Evaluation Report* the reasons it believes the health, sensory or physical limitation will have an impact on the progress of the student in the Educational Progress section.

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### Components of Progress

Components of progress which must be provided as evidence for this indicator include:

- a clearly defined area of concern which includes a measure or performance indicator, baseline data and frequent and repeated data collection over time
- a clearly articulated and targeted intervention which meets scientifically research or evidence based practices and ensures that the individual's rate of progress is not directly related to a lack of appropriate instruction, absenteeism or mobility issues
- a description of the data collected and the decisions made based on that data (conclusions). This description must include a summary of the individual's rate of progress when compared with expected performance. It must also include a convergence of data that substantiates defensible conclusions about progress and response to instruction/intervention.

Additionally, whenever intervention results are used in eligibility determinations, the intervention **must** meet the requirements of systematic problem solving [41.313]. See Systematic Problem Solving, above.

If the components of progress are available at the time of the consent for evaluation, then no additional progress data is required. If the components of progress are not available at the time of consent, then a targeted intervention will need to be developed and implemented concurrently with the evaluation and which meets all of the above data requirements.

If sufficient data are not available for the team to conclude that the individual's rate of progress is substantially different than the rate of progress of typical peers, then the team must determine the child to be "not eligible" for special education and related services.

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## Progress, Discrepancy & Need, Continued

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### Progress data available from the web I-Plan

If formal intervention data are not available to answer the components of Progress, team members may wish to use the web-based I-Plan system to document the instructional intervention and the individual's progress. The I-Plan data may also be used to answer questions related to appropriate instruction as a causative factor for the individual's performance. While revisions of this system are being considered, it should be noted that the I-Plan system provides a comprehensive method for gathering data related to student performance which teams may use for their data analysis during the full and individual initial evaluation. Teams are strongly encouraged to use the I-Plan system or an alternative system which employs the same rigor of intervention components.

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### Progress Decision Making

In addressing progress for the full and individual initial evaluation, teams consider and document objective evidence to answer the following questions.

- What is the child's rate of skill acquisition?
  - What is the expected rate of skill acquisition (standard and/or peers)?
  - Based on the previous two questions what can the team predict about the amount of time it will take for the child to reach the standards and "catch up" with his/her peers?
  - Under what conditions did the child experience the most growth? For example:
    - ✓ What curriculum level was used to ensure a positive acquisition rate?
    - ✓ What frequency or immediacy of reinforcement was needed to provide for a positive acquisition rate?
    - ✓ What group size? Time? Frequency? Intensity of instruction was needed to ensure progress?
    - ✓ What does the sustained progress data gathered over 6 to 9 weeks suggest about the student's rate of acquisition?
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### Progress Documentation

The information gathered to document the progress components and the team's decision making is summarized in the *Educational Evaluation Report*.

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## Progress, Discrepancy & Need, Continued

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### **Discrepancy Discussion**

In addition to evaluating progress, the disability determination focuses on the magnitude of discrepancy. The discrepancy decision is based on the selection of appropriate standards of comparison and the individual's performance compared to that standard.

Once a standard of comparison is selected and the individual's performance is measured and compared to this standard, a decision must be made as to the magnitude of the discrepancy and if the discrepancy is large enough to warrant special education and related services. The discrepancy needs to be made on reliable, valid, current and relevant measures.

Discrepancy data provides objective evidence that an individual's performance is significantly different than the majority of children or youth of similar age or grade and discrepant from standards (e.g. Iowa Core Content Standards, Iowa Early Learning Standards) or the essential skills and concepts of the Iowa Core Curriculum.

There may be times when sufficient existing data are available to respond to the discrepancy components. For purposes of this initial evaluation, the team may simply be documenting in the *Educational Evaluation Report*, that data which answers the discrepancy components and questions. If the components of discrepancy are not available at the time of consent, then the team will need to assess the student's present levels of performance on standards for comparison. Data gathered from these assessments will be described in the *Educational Evaluation Report*.

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### **Discrepancy Determination for Health, Sensory and/or Physical Impairment**

As stated previously, in rare and unusual cases, evaluation team may not need intervention data to determine that the child has a disability. In such unique cases, the team should document in the *Educational Evaluation Report* the health, sensory or physical limitation discrepancy from typical same age/grade peers that will have an impact or currently impacts the individual in the Educational Discrepancy section.

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*Continued on next page*

## Progress, Discrepancy & Need, Continued

### Components of Discrepancy

Components of discrepancy which must be provided as evidence for this indicator include:

- a clearly articulated standard of comparison,
- a description of the child's current level of performance, and
- a description of the discrepancy and the significance of this discrepancy

An appropriate expectation would likely be based on a minimal level of student performance relative to the comparison group. A standard of comparison is selected and used to evaluate the individual's performance. The standard chosen must be relevant to the targeted area of concern. Teams are encouraged to consider first, if the individual is discrepant from:

- Iowa Core Curriculum Essential Concepts and Skills
- Iowa Early Learning Standards
- Iowa Core Content Standards

Absent the first three standards of comparison, the following standards of comparison (in order of rigor) may be used:

- district measure of peer performance,
- local district, AEA, state or national norms,
- district standards and benchmarks,
- developmental norms,
- classroom expectations, and
- school policy statements (e.g. student code of conduct).

The description of the student's current levels of performance is reported on the same standard the team uses for comparison and should have the highest level of rigor.

### Discrepancy Decision Making

In addressing discrepancy for the full and individual initial evaluation, teams consider and document objective evidence to answer the following questions.

1	What are the <b>multiple sources of data</b> that demonstrate the individual's performance is significantly discrepant from that of peers and expected standards?
2	How does the individual's current level of performance compare to that of typical peers or expected standards?
3	What is the magnitude of the discrepancy?
4	What are the functional implications of the discrepancy? (Meaningful in a practical sense and reliable in a statistical sense.)

**Note:** Eligibility determination is made using the convergence of data from multiple sources.

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## Progress, Discrepancy & Need, Continued

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### **Magnitude of Discrepancy**

Although there are no specific “cutoff” scores that eligibility determination teams must utilize for decision making, there are guidelines based on data that teams need to follow when determining magnitude of discrepancy.

- When considering benchmarks and standards (Iowa Core Content, Iowa Early Learning, Iowa Core Curriculum’s essential skills and concepts) as the standard of comparison, the student’s performance should be below grade level.
- In some cases, discrepancy can be measured in terms of years behind in the curriculum. This needs to be a decision that is made relevant to the targeted area of concern. For example, one would not want to wait until an individual was two years behind before providing instruction in specific reading skills.
- When a measure is utilized that provides the opportunity to identify a percentile rank, a score near or below the 12<sup>th</sup> percentile may be considered to be significantly discrepant.
- When standard scores are available, at least one standard deviation may represent a significant discrepancy. If a measure providing standard scores is utilized the data gathered must also be used to guide instruction, not merely to establish a discrepancy.
- For preschool children, where developmental norms are available, a 25 percent or more delay from expected level might be considered significant.
- For specific areas such as speech/language therapy, occupational therapy, physical therapy, vision and hearing, the teams will need to refer to discrepancy guidelines set for those disciplines/domains.

Teams should note that discrepancy decision making occurs following targeted intervention to remediate the area of concern, not the point at which the area of concern is first noted.

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## Progress, Discrepancy & Need, Continued

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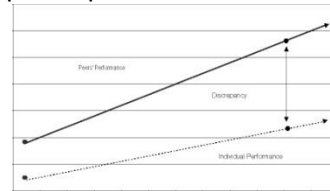
### Discrepancy Documentation

The information gathered to document the discrepancy component must include answers regarding the following questions.

- What is the student's **current level of performance**?
- What is the **expectation in this area (standard and/or peers)**?
- What is the **magnitude of discrepancy**?
- Does a **significant discrepancy** exist?

Answers to these questions should be summarized in the Educational Discrepancy section of the *Educational Evaluation Report* for each area of concern and all performance domains listed on the *Consent for/Notice of Full and Individual Initial Evaluation*. Although the discrepancy decision is based on a child's performance at a given time, teams are encouraged to look at multiple sources of data such as the child's performance on the less preferred standards or additional assessments (e.g. interviews with teachers, classroom products, district wide assessments) which provides convergent data for the discrepancy decision making.

It should be noted that the web I-Plan provides a graphic representation of the discrepancy component for eligibility determination. Teams are strongly encouraged to use the I-Plan system or an alternative system which employs the same graphic representation of the discrepancy components following targeted intervention. If the Department issues requirements for progress monitoring in eligibility determinations, teams will follow those requirements.



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### Need Discussion

Instructional need is the third required component of eligibility determination, and is reflected in the team's judgment that an individual requires special education and related services in order to receive a free and appropriate education. Specifically, teams assess through multiple methods (Review, Interview, Observe, Test), the needs of the individual in each of four areas.

- Instruction
- Curriculum
- Environment
- Learning Supports

Teams must consider the individual's learning characteristics, ecological variables, and any other relevant information collected as part of the evaluation to determine what accommodations, modifications, services and supports the individual needs in each of the above areas. To meet the need component of eligibility, however, identification of only one area is required.

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## Progress, Discrepancy & Need, Continued

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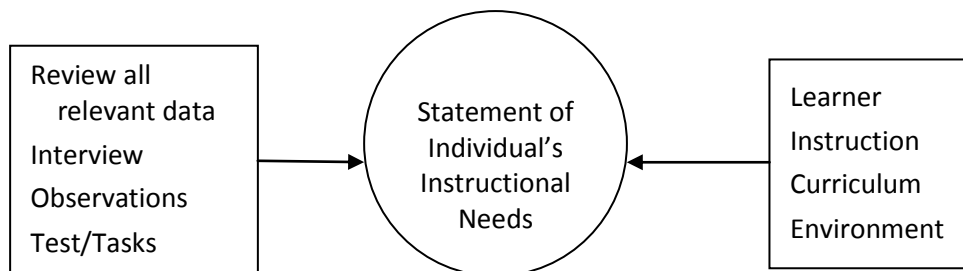
**Need Discussion**  
(continued)      There may be times when sufficient data are available to answer the need components. For purposes of the evaluation, the team may simply be documenting the Educational Needs in the *Educational Evaluation Report*

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**Need Components**

Based on the convergence of all data collected as part of the evaluation process, instructional need is a data-based description of the resources necessary to improve and maintain the student's rate of learning at an acceptable level and requires teams to operationally define the conditions under which learning is enabled or enhanced. The discussion of need summarize the unique constellation of services and supports that an individual requires that go beyond the capability of general education to provide without special education resources.

The educational services, activities, supports, accommodations and modifications required by the individual to be successful and which cannot be sustained without special education services must be determined through careful analysis of all evaluation data – represented in the following graphic.



The team's conclusion regarding the individual's needs for specialized services or resources should be described in the Educational Needs section of *the Educational Evaluation Report* and if the student is determined eligible for special education should guide the Individualized Education Program.

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## Progress, Discrepancy & Need, Continued

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### **Need Decision Making**

Need is the IEP team's judgment that an individual requires special education and related services in order to receive a free and appropriate education. In addressing need, teams consider the following questions:

1. What are the individual's needs in the areas of instruction, curriculum, and environment? For example:

In instruction, does the individual require instruction from someone with specialized preparation or training? Does the individual require instruction that includes frequent repetitions of key concepts?

In curriculum, does the individual require alternative textbooks (digital media, alternative accessible media) or instructional materials? Does the individual require curriculum at a different or extended grade level?

With respect to the environment, does the individual need a distraction free environment or a ratio with fewer students to teacher? Does the child need visual supports?

In the area of learning supports does the child need an individualized reinforcement system, assistive technology, additional passing time, etc?

2. What are the instructional strategies, accommodations, and modifications that will enable the individual's learning performance to improve?
3. What accommodations and modifications were provided which enhanced the individual's performance and allowed opportunity to acquire educationally relevant skills?
4. What, if any, ecological variables are related to the individual's needs and potentially contribute to the interventions, accommodations or modifications not enhancing the individual's performance?
5. What is the pervasiveness of the area of concern across settings and time?
6. What ongoing, substantial, additional services are needed that exceed the capacity of general education resources alone?

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## Progress, Discrepancy & Need, Continued

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### **Need Documentation**

The information gathered to document the need areas and to determine the answers to need decision is summarized in the Educational Needs section of the *Educational Evaluation Report*. If the individual's instructional needs require services and supports that extend beyond what typical general education resources alone can provide then the individual has met the criteria for instructional need which is indicated on the form.

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### **Summarizing the Evaluation Information in the Education Evaluation Report**

The *Educational Evaluation Report* is where teams summarize the information gathered through the full and individual initial evaluation. It provides the evidence (objective data and supportive information) that the individual is eligible and in need of special education and related services or is not eligible. The report's information will address the following questions:

1. Does the individual have a disability? (A disability is a significant skills deficit, a health or physical condition, a functional limitation, or a pattern of behavior that adversely affects the individual's rate of progress and current level of performance.)
2. Are special education resources required to meet the individual's educational needs?

Note: When the answer to both 1 and 2 is "yes" then the individual is eligible for special education and related services.

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# Eligibility Determination

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## Citation

Iowa Rules of Special Education 41.306; 41.322; 41.328; 41.501  
*Special Education Eligibility Standards*, Iowa Department of Education, July 2006

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## Eligibility Determination Discussion

Upon completion of the full and individual initial evaluation (e.g. administration of assessments, summarizing existing data) and prior to the 60 day time limit, a group of qualified professionals and the parent of the child determine whether the child is a child with a disability and eligible for special education.

Eligibility is defined as the individual's right to receive special education and/or related services. Eligibility determination relies on the establishment of both the presence of a disability and the need for special education instructional support and related services. The evaluation team will answer two questions:

1. Does the individual have a disability? (A disability is a significant skills deficit, a health or physical condition, a functional limitation, or a pattern of behavior that adversely affects the individual's rate of progress and current level of performance.)
2. Are specially designed instruction and related services required to meet the individual's educational needs?

When the answer to both questions is "yes" then the individual is eligible for special education and related services.

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## Eligibility Determination Meeting

When the evaluation is complete (or nearing completion), the evaluation team will schedule an Eligibility Determination Meeting for the purpose of addressing the question, "Does the child's performance suggest the presence of a disability and the need for specialized instruction and related services?"

Schedule the eligibility meeting on a date and at a time and location convenient for the parent and for the public agencies. Parents must be provided a completed *Meeting Notice*. Advanced notice of the meeting date, time and location must also be provided to all participants to assure meaningful participation. If interpreter services are required to meet the needs of the parent and/or the student, they must also be provided.

If the parent(s) is unable to attend the meeting, additional attempts must be made to ensure the parent can be a part of this process.

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## Eligibility Determination, Continued

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### Documenting the Evaluation Timeline

The date of the eligibility determination meeting must meet the 60 day timeline requirements for initial evaluations and must be noted on the *Eligibility Determination Worksheet*. The *Eligibility Determination Worksheet* also requires that a reason be selected when such a meeting is not held within the 60 day timeframe.

There are only two special circumstances to consider when meeting the 60 day timeline:

- If the parent/legal guardian refuses or repeatedly fails to make the child available for the evaluation, an eligibility meeting must still occur within the 60-day timeframe.
  - If the child enrolls in a school in another district after consent has been received the 60-day timeframe remains in effect. However the receiving school may be allowed additional time provided sufficient progress is being made to ensure prompt completion of the evaluation and the parents and public agency agree to a specific timeframe to complete the evaluation.
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### Evaluation Timelines for Children Transitioning from Part C

For Part C children being considered for Part B eligibility, the eligibility determination meeting must be completed within the 60 day timeline. In addition, the evaluation and subsequent IEP meeting if the child is eligible for special education must occur before the child turns age 3 to meet state performance indicators.

The *Eligibility Determination Worksheet for a Child Transitioning from Early ACCESS* requires that a reason be selected when an eligibility determination meeting is not held prior to the child's third birthday and within the 60 day timeframe. No reason is considered acceptable and not holding the meeting within the timeframe will be considered non-compliant for meeting federal data requirements.

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### Eligibility Determination Meeting Notice

A designated member of the IEP team will complete the *Meeting Notice*, mail it to the parent and provide a copy to the remaining IEP team members. The *Meeting Notice* must be presented to the parents in a language that they understand. Steps for completing the *Meeting Notice* form are found in the *Iowa Special Education Processes and Documentation* technical assistance manual.

Note: It is recommended that a copy of the *Educational Evaluation Report* be sent to the parent at the time the *Meeting Notice* is sent.

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## Eligibility Determination, Continued

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### **Eligibility Determination Team Membership**

Eligibility decisions are made by a team of individuals comprised of the individualized education program (IEP) team and other qualified professionals, as appropriate. Required participants must be identified and invited to the eligibility determination meeting. The general requirements for team membership are:

- c) parents of the individual being evaluated;
- d) general education teacher;
- e) at least one special education teacher or, if appropriate, at least one special education provider for the eligible individual;
- f) a representative of the LEA or AEA who is qualified to provide or supervise the provision of specially designed instruction and who is knowledgeable about general education curriculum and the availability of the resources of the LEA;
- g) an individual(s) who can interpret the instructional implications of the evaluation results;
- h) other individuals with knowledge or special expertise regarding the eligible individual, as appropriate; and
- i) the individual being considered for eligibility as appropriate.

Additional participants may be invited. This group of individuals is hereafter referred to as the Individualized Education Program (IEP) team.

**Note:** An individual, when qualified may hold two or more positions on the evaluation team. An AEA representative is a required participant with knowledge or expertise to interpret the instructional implications of the evaluation results and intervention outcomes.

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## Eligibility Determination, Continued

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### **Eligibility Determination**

Convene the IEP team to share the results of the Full and Individual Initial Evaluation and to determine eligibility for Special Education. Copies of the *Educational Evaluation Report* should be available for all participants in the meeting. (Note: Parents should receive a copy of the evaluation report prior to the meeting to ensure their active participation.)

The following questions are addressed during the meeting:

1. Does the individual have a disability? (A disability is a significant skills deficit, a health or physical condition, a functional limitation, or a pattern of behavior that adversely affects the individual's rate of progress and current level of performance.)
2. Are specially designed instruction and related services required to meet the individual's educational needs?

When the answer to both questions is "yes" then the individual is eligible for special education and related services.

In addition, the IEP team must once again review the exclusionary reasons to ensure that the individual's performance difficulties are not primarily due to:

- a lack of appropriate instruction in reading, including the essential components of reading instruction (Phonological Awareness, Phonics, Fluency, Vocabulary, and Comprehension)
- a lack of appropriate instruction in math
- limited English proficiency

The IEP team must also be careful to not decide that the child has a disability if the determinant factor is primarily related to other ecological variables, including socio-economic status, cultural or ethnic differences, or school attendance or mobility.

The student is deemed to be an eligible individual if the team determines the answers to each of the eligibility questions is yes and the exclusionary reasons are not a primary factor for the student's performance.

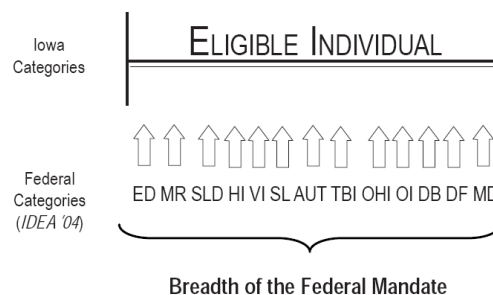
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## Eligibility Determination, Continued

### Eligible Individual

In Federal law, a “child with a disability” is an individual who has one or more of thirteen defined disabilities and, by reason thereof, requires special education and related services. It is not required that children be classified by their disability so long as each child who has one of the federally listed disabilities and requires special education and related services is identified as eligible for special education. The State of Iowa, as permitted by federal law [34 C.F.R. § 300.111(d)], utilizes a non-categorical designation for all individuals, birth through age 21. The following figure illustrates how Iowa’s non-categorical designation encompasses federal disability categories.



Eligible Individual (EI) is used as the designation for individuals who are determined to be an individual with a disability and who are in need of special education and related services.

The Iowa Department of Education has adopted the position that disability categories or labels across all ages are not needed in the educational setting for the following reasons:

- a) the use of labels does not identify an individual’s unique needs;
- b) labeling encourages the perception that all individuals in a category have the same characteristics;
- c) a label, in and of itself, does not provide educators with information regarding the individual’s instructional needs;
- d) educators’ expectations based on labels may influence the performance of students;
- e) labeling, in most cases, is negatively loaded terminology and may be permanently stigmatizing;
- f) labeling puts the burden of failure on the student; and
- g) the use of labels may become the basis for assigning an individual to more restrictive services than required.

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## Eligibility Determination, Continued

### Eligible Individual (continued)

If the team determines the child is a child with a disability **the designation of eligible individual (EI)** will be used for a disability category.

### Eligibility Determination Documentation Procedures

If the student is determined to be...	then
an Eligible Individual	<p>A final copy of the <i>Educational Evaluation Report</i> is provided to the parents/legal guardians. The public agency provides a copy of the evaluation report to the parents at no cost.</p> <p>The <i>Eligibility Determination Worksheet</i> or the <i>Eligibility Determination Worksheet for a Child Transitioning from Early ACCESS</i> is completed and turned into appropriate IMS staff.</p> <p><i>Prior Written Notice</i> is completed and provided to the parents indicating that this student is identified as an "eligible individual."</p> <p>The AEA shall ensure that the name and required special education, support and related services of each eligible individual is entered into the Information Management System (IMS) and that the AEA director annually certifies the entitlement of the eligible individuals. [41.306(4)]</p> <p>The team develops an <i>Individualized Education Program</i> and schedules an IEP meeting for no later than 30 days (and prior to the child's third birthday if transitioning from Early ACCESS) from the date eligibility was determined. Refer to that section of the manual for further guidance.</p>
NOT an Eligible Individual	<p>A final copy of the <i>Educational Evaluation Report</i> is provided to the parents/legal guardians. The public agency provides a copy of the evaluation report to the parents at no cost.</p> <p>The <i>Eligibility Determination Worksheet</i> is completed and turned into appropriate IMS staff.</p> <p><i>Prior Written Notice</i> is completed and provided to the parents indicating the child is NOT eligible for special education.</p>

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## Eligibility Determination, Continued

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**Development of an Individualized Education Program (IEP)** For an individual who is eligible for special education, data resulting from the full and individual initial evaluation as well as other relevant information is used to develop an IEP. A meeting to develop the IEP must occur within 30 days of eligibility determination [41.323(3)]. Developing the IEP may occur during the Eligibility Determination Meeting.

A meeting to develop the IEP must occur within 30 days of eligibility determination and prior to the child's 3<sup>rd</sup> birthday for children transitioning from Early ACCESS.

**Note:** If the child is between the ages of 3-5 and not in kindergarten, the team must complete the *Early Childhood Outcomes Summary (ECO)* and submit it with the IEP.

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## Additional Information

### Medical or Mental Health Diagnoses and Special Education Eligibility Technical Support Paper

Educational teams may encounter parents and/or health providers who believe a medical diagnosis automatically entitles their child to special education services and specific accommodations. While medical diagnoses are important pieces of information in the process whereby teams determine if a child is suspected of having a disability, they do not answer all the question necessary to determine special education eligibility. Special education multidisciplinary teams must determine if the student's rate of progress, discrepancy from peers and instructional needs are substantial enough to warrant special education and related services.

The law provides that a determination of whether a child is eligible to receive special education must be made by a team, not an individual; furthermore, the law specifies what factors the team must consider. 34 C.F.R. §§ 300.304-.305. Medical diagnoses do not meet these standards for team participation. Also, the law specifically states that "evaluations and information provided by the parents of the child" are one source of the team's data. 34 C.F.R. § 300.305(a)(1)(i). The team must consider a medical diagnosis, but it is not bound by any conclusions contained in the diagnosis. Additionally, the law specifies that an eligibility determination may not be made on a single piece of information, 34 C.F.R. § 300.304(b)(2), such as a medical diagnosis. While a diagnosis from a private provider may be enough to create a *suspicion* that a child is a child with a disability, the diagnosis itself is never enough to determine *eligibility*.

Commentators have provided analysis that supports the requirements in the law. Beth Hardcastle indicates there is confusion regarding special education eligibility in the medical community. For example, "Physicians tell parents of students with ADHD to inform the school district that their child is OHI and parents think the school has to comply [in terms of eligibility]. Some schools make the mistake of caving in to that demand -- we make sure to follow our own eligibility criteria." (Caruso, 2006).

Attorney Jim Walsh, a noted special education attorney and speaker at several Iowa Special Education Law Conferences, suggests a three step response when parents request an evaluation based on a medical or mental health referral. (Walsh, 2006).

First, the parents should be thanked for their interest and concern regarding their child's education, as well as for sharing any information that they have which might assist the team in educating the child.

Second, the parents should be asked to sign an exchange of information form, explaining to parents that school staff will want to share information with the doctor regarding progress and may want to ask specific questions about how the health or mental health diagnosis might impact the child's educational progress.

The third step is to follow up with the doctor. Ask the doctor to describe how the decision to refer was made. Did the physician visit with anyone from the school or review school records? What information was the parent able to share with the physician? What is the history of the physician with the child and has the issue been present over time? In turn, the school or AEA staff member visiting with the doctor should share how special education eligibility is determined in the state of Iowa, most specifically the three components of discrepancy, rate of progress and instructional need.

Given the medical referral, school based teams might best be served by completing the Disability Suspected Form to determine if an evaluation for special education is warranted. All information available in each of the performance domains is reviewed to determine if an educational disability (discrepancy from peers, rate of progress different than peers) is suspected.

District evaluation teams should consider a range of data when determining IDEA eligibility, not just medical diagnoses in order to make informed eligibility decisions based on information from a variety of sources. While school teams may certainly grant weight to the recommendation of physicians, doctors do not determine eligibility. As explained above, special education eligibility is determined based on the child's educational performance and by "a team of qualified professionals and the parent of the child." 34 C.F.R. § 300.306(a)(1).

### ***Bibliography***

In addition to the law cited, the following documents were gathered from the Special Education Connection at [www.specialedconnection@lrp.com](http://www.specialedconnection@lrp.com) and served as guidance for the procedures above.

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Caruso, Brian. *Don't put students with ADHD on 'fast-track' for OHI eligibility*. November 9, 2006

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Walsh, Jim. *Walsh's Word: Doctor's note alone does not qualify student for special ed*. October 23, 2006. LRP Publications

## Assessment Methods and Sources Matrix

Assessment Domains/Data Sources			
Domain: Instruction			
<b>R</b> Review	<b>I</b> Interview	<b>O</b> Observe	<b>T</b> Test
<p>Lesson plans</p> <p>Permanent products (e.g. written pieces, worksheets, projects) for skill/degree of difficulty requirements</p> <p>Benchmarks/ standards</p>	<p>Teachers about:</p> <ul style="list-style-type: none"> <li>• effective teaching practices</li> <li>• instructional decision making regarding choice of materials, placement of students</li> <li>• sequencing/pacing of instruction</li> <li>• choice of screening, diagnostic and formative assessments</li> <li>• product methods (e.g. dictation, oral retell, paper pencil, projects)</li> <li>• groupings used</li> <li>• decision making regarding instructional change</li> <li>• accommodations/ modifications used</li> <li>• reinforcement strategies</li> <li>• allowable repetition or direct instruction</li> <li>• who is providing the supplemental/intensive instruction</li> <li>• what supportive technology is used</li> </ul>	<p>Teacher's instructional style/preferred style of presenting</p> <p>Clarity of instructions/ directions</p> <p>Effective teaching practices</p> <p>Communication of benchmarks/expectations and criteria for success</p> <p>How new information is presented</p> <p>Percent of time with direct instruction, whole group instruction, practice time, etc.</p> <p>How the teacher gains/ maintains student attention</p>	<p>Instructional Placement Tests (diagnostic assessments)</p> <p>Assessment alternatives (e.g. projects, portfolios, retell)</p> <p>Progress data (formative evaluation)</p>

Domain: Curriculum			
<b>R</b> Review	<b>I</b> Interview	<b>O</b> Observe	<b>T</b> Test
<p>Curriculum selected</p> <ul style="list-style-type: none"> <li>• scientific researched based</li> <li>• implemented with integrity</li> </ul> <p>Scope and sequence of text books</p> <p>Permanent products (e.g. books, worksheets, curriculum guides)</p> <p>Benchmarks/ Standards</p>	<p>Teachers/Curriculum Director</p> <ul style="list-style-type: none"> <li>• core curriculum</li> <li>• support curriculums used for supplemental and intensive instruction</li> <li>• supplemental teaching materials</li> <li>• Teachers/Counselors</li> <li>• expanded core curriculum (e.g. friendship skills, study skills)</li> </ul> <p>Teacher(s)</p> <ul style="list-style-type: none"> <li>• philosophical orientation of curriculum (e.g. whole language, phonics)</li> <li>• expectations of district for pacing/coverage of curriculum</li> <li>• content/outcomes of course</li> <li>• modifications of benchmarks made for students</li> <li>• readability of textbook</li> <li>• prerequisite skills/prior understanding needed for success</li> <li>• allowable repetition for mastery/understanding</li> <li>• technology integration</li> </ul>	<p>Peer group response to curricular demands</p> <p>Variety of practice opportunities</p> <p>Allowance for peer sharing/ mentoring during work time</p>	<p>Readability/ level of text books</p> <p>End of chapter/ unit tests</p> <p>Readability level/difficulties of tests</p>

Domain: Environment			
<b>R</b> Review	<b>I</b> Interview	<b>O</b> Observe	<b>T</b> Test
School/ classroom rules  Physical layouts of school, classrooms, property, and busses as appropriate	Teacher(s) <ul style="list-style-type: none"> <li>classroom routines, rules, behavior management plans, situational expectations (e.g. classroom vs. hallway, phy ed, recess) and how rules were developed</li> <li>make-up of peers</li> <li>(re)organization of room's layout (e.g. desk location selection, changes)</li> <li>limited distractions area</li> </ul> Principal <ul style="list-style-type: none"> <li>school wide discipline</li> </ul> Parents <ul style="list-style-type: none"> <li>discipline used at home</li> <li>what does study area look like</li> </ul> Student <ul style="list-style-type: none"> <li>impact of environment</li> <li>impact of peers</li> </ul> Other school staff as appropriate	Classroom's physical layout/arrangement  Lighting/sound sources, temperature, noise levels  Environmental/other student distractions  Posting of classroom rules and/or daily schedule  Signal for transitions  Social expectations  Established routines versus new/novel expectations  Peer makeup  Interaction patterns	Classroom mapping  Setting analysis  Systematic Observation  Sociogram

Domain: Learner			
<b>R</b> Review	<b>I</b> Interview	<b>O</b> Observe	<b>T</b> Test
Product vs. peer product  Cumulative file/ records  Health records, including vision and hearing  Teacher's grade book  Assignment notebook  Previous interventions if available  Patterns of performance, including attendance, retention, and moves  Error analysis of permanent product  Response to interventions as reflected by systematic progress monitoring	Teacher <ul style="list-style-type: none"> <li>instructional strategies working best for the student</li> <li>student performance compared to peers</li> <li>patterns of performance errors/ behavior</li> <li>setting(s) where behavior is problematic</li> <li>significance of academic, speech, social, task or motor difficulties</li> <li>onset and duration of problem</li> <li>consistency from day to day, subject to subject</li> <li>interference with personal, interpersonal, and academic adjustment</li> <li>performance using different modes of expression (e.g. verbal, written, kinesthetic)</li> </ul> Parents <ul style="list-style-type: none"> <li>health issues impacting learning</li> <li>orthopedic or neurological issues</li> <li>hearing/vision checks</li> <li>perceptions on learning, behavior, speech or motor difficulties</li> <li>interference of identified difficulty on outside of school activities</li> <li>social expectations at home</li> <li>cultural factors influencing child</li> </ul> Learner <ul style="list-style-type: none"> <li>interests/strengths</li> <li>perception of difficulties</li> <li>ideas about what s/he needs</li> <li>personal adjustment</li> </ul>	Student's learning style match for instruction  Use of supportive technology  Setting analysis including: <ul style="list-style-type: none"> <li>target behavior, antecedents, conditions, consequences</li> <li>dimensions and nature of the problem</li> <li>transitions</li> <li>large group instruction</li> <li>small group instruction</li> <li>independent work time</li> <li>groups work time</li> </ul> Processing directions  Cultural factors  Access barriers  Interactions	ITBS/ITED and other academic assessments  Cognitive assessments  Preference/ interest inventories  Motivation scales  Personal adjustment and behavior rating scales  CBM/CBA/CBE  Progress monitoring  Response to interventions  FBA - nature and dimensions of behavior (frequency, duration, latency, intensity), including anecdotal notes

## Individualized Education Program (IEP) Overview

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**What is an IEP?** An individualized education program (IEP) is a written document for each child with a disability that describes the student's educational program. The IEP must be in effect prior to the student receiving services. Each eligible individual shall have only one current IEP. [41.320]

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**Purpose of the IEP** The purpose of the individualized education program (IEP) is to provide a plan designed to meet the educational needs of an eligible individual and to commit the resources necessary to meet those needs.

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**Guiding Principles of the IEP** The IEP is based on the following guiding principles:

- The IEP is a process and a product that documents that the student is receiving a free and appropriate public education (FAPE) consistent with all federal and state requirements
- To the maximum extent appropriate, students are educated and participate with other students with disabilities and nondisabled children in the general education environment
- IEP development is a collaborative process
- The IEP team develops a program that is designed so that the student can progress toward meeting annual goals of the IEP, be involved in and progress in the general curriculum (including the LEA's implementation of the Iowa Core Curriculum,) participate in nonacademic and extracurricular activities, and be educated with nondisabled peers, and
- The IEP process involves on-going progress monitoring and decision-making. Decision-making is based on the student's needs and is used to improve student results

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**Iowa Code Requirements in Developing an IEP** The IEP is developed, reviewed, and revised in accordance with Iowa's *Rules* and includes:

- A statement of the child's present levels of academic achievement and functional performance [41.320(1)a]
- A statement of measurable annual goals including academic and functional goals [41.320(1)b]
- A description of benchmarks or short-term objectives for those students who take alternate assessments aligned to alternate achievement standards [41.320(1)c]
- A description of how progress toward meeting the annual goals will be measured and when periodic reports on the progress the student is making toward meeting the annual goals will be provided [41.320(1)d]
- A statement of the special education and related services and

- supplementary aids and services provided to the student [41.320(1)c]
- An explanation of the extent, if any to which the student will not participate with nondisabled students in the regular class [41.320(1)f]
- A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and districtwide assessments and, if the student must take an alternate assessment, why the student cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate [41.320(1)g]
- The projected date for the beginning of the services and any modifications and the anticipated frequency, location, and duration of those services and modifications [41.320(1)h]

Beginning not later than the first IEP to be in effect when the students turns 14, or younger if determined appropriate by the IEP team, and updated annually, thereafter, the IEP must include:

- Appropriate, measurable, postsecondary goals based upon age appropriate transition assessments related to training, education, employment and where appropriate, independent living skills
- The transition services, including courses of study, needed to assist the student in reaching the goals [41.320(2)]

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**Why Use an IEP Form and Have an IEP Team?**

Iowa IEP forms are designed to document the information upon which plans and decisions are made.

The IEP team's decisions regarding goals, activities, services, service locations, and to document due process procedures are required by law.

The focus of an IEP meeting is be on the development of an individualized, appropriate educational program. The completion of the forms and the critical information contained in them is also important, as this information documents the commitment of resources to address an eligible individual's needs.

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## Types of IEP Meetings

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### **The Five Types of IEP Meetings**

There are five types of IEP meetings:

- Initial
  - Review
  - Reevaluation
  - Amendment, and
  - Interim
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# Initial IEP Meetings

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## Initial IEP Meeting

Initial IEP meetings are held following the completion of a full and individual evaluation, and the determination of eligibility for special education services.

This meeting must be held within 30 days of determining that the child needs special education and related services. After the initial IEP is developed, special education and related services should be made available as soon as possible. [41.323(3)]

The meeting in which a team reviews evaluation results, and determines eligibility is often held in conjunction with the initial IEP meeting.

The requirements of an *initial* IEP meeting are the same as any other IEP meeting but must also take into account:

- When a single eligibility/IEP meeting is held, that meeting must be held within 60 calendar days of the date the school or AEA has received signed parent consent for an initial evaluation, or [41.301(3)]
- If two meetings are held — one to establish eligibility and one to develop an IEP — the initial IEP meeting must be held within 30 calendar days of the meeting at which eligibility was established, and [41.323(3)]
- For children who are transitioning from Part C (infant and toddler services) to Part B (preschool and school-age services), an IEP must be developed and implemented prior to the child's third birthday. [(41.124(2))]

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## Parental Consent for Services

Prior to the initial provision of special education services the AEA or LEA must obtain informed consent from the student's parents.

A student may not receive special education services until informed parental consent is obtained.

The AEA or LEA must make reasonable efforts to obtain informed consent. Attempt to obtain informed consent must be kept, including:

- Detailed records of telephone calls made or attempted and the results of those calls
  - Copies of correspondence sent to the parents and any replies received
  - Detailed records of visits made to the parent's home or place of employment and the results of those visits
-

**Refusal to Give Consent**

If the parent fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the AEA or LEA:

- May not use procedural safeguard in order to obtain consent or use a ruling from a hearing, mediation, preappeal or state complaints to provide services to the child
  - Will not be considered in violation of the FAPE requirement because of failure to provide special education services
  - Is not required to convene an IEP team meeting or develop an IEP
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**Revoking of Consent**

If , at any time following the initial provision of special education services, the parent of the child revokes consent in writing for continuing the special education services the AEA or LEA:

- May not continue to provide special education services, but must provide written prior notice ceasing the provision of special education services
  - May not use procedural safeguards in order to obtain agreement or use a ruling from a hearing, mediation, preappeal or state complaints to provide services to the child
  - Will not be considered in violation of the FAPE requirement because of failure to provide special education services
  - Is not required to convene an IEP team meeting or develop an IEP
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# Review IEP Meetings

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## **What is a Review Meeting?**

IEP reviews are conducted periodically, but must be conducted at least annually.

The eligible individual's entire IEP must be reviewed. Typically, changes will be made to reflect the student's growth in present levels of academic achievement and functional performance over the past year. This growth may have implications for goals, services, LRE, and communication with parents. [41.324(2)]

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## **Purpose of the Review Meeting**

In a review, the IEP team must determine if annual goals are being achieved and will need to revise the IEP as appropriate to address the following: [41.324(2)]

- Progress toward annual goals and in the general education curriculum (**Note:** consider both lack of progress or greater than expected progress)
  - Results of any reevaluation
  - Information about the child provided to or by the parents
  - The child's anticipated needs for the coming year and;
  - And any other relevant information (e.g., the results of an outside evaluation)
- 

## **Steps to Follow in the Review Process**

Steps to follow in the review process:

1. Schedule an IEP meeting before the anniversary of the current IEP [41.324(2)"a"(1)]
  2. Invite the appropriate general and special education teachers, support staff, and local school representatives [41.321(1)]
  3. Provide a Meeting Notice to all IEP team members, including parents [41.322(2)]
  4. Provide parents with a copy of the Procedural Safeguards and review this information at the IEP meeting [41.504(1)]
  5. Review the existing IEP [41.324(2)"a"(1)]
  6. Write a new IEP with a duration of no more than one year [41.324(2)"a"(2)]
  7. Provide parents with Prior Written Notice of a Proposed or Refused Action for any changes in the student's educational program if the district or AEA proposes to change the identification or placement, or change the provision of a free appropriate public education [41.503]
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# Reevaluation IEP Meetings

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## Reevaluation Meetings Required

Reevaluations of eligible individuals are required at a minimum, every three years. Reevaluations are required sooner if:

- The child's parent or teacher requests a reevaluation – [41.303(1)"b"]
- The IEP team determines that a reevaluation is warranted in order to address the educational or related services needs of the eligible individual including improved academic achievement and functional performance. As the team addresses these needs by considering the addition, deletion or change to a service or support on the IEP, it does not automatically mean that a reevaluation must be conducted. The team needs to look at what information is already available (e.g., classroom-based assessments, etc.) that will assist the IEP team in their planning and decision making on behalf of the eligible individual. If adequate data already exist, then no reevaluation is required. [41.303 (1)"a"]
- The IEP team will be considering whether a child is no longer an eligible individual (i.e., returning to regular education with no special education services is being considered) [41.305(5)]
- The available data for a transfer student from out-of-state is insufficient to establish eligibility for special education in Iowa or to develop an appropriate IEP. [41.323(6)"a"]

If the reevaluation due date is close to the due date for the annual review, make every effort to consolidate these meetings for the child. Both due dates (annual and reevaluation) must be met, so the earlier of the two dates is the target for a meeting. For example, if the review is due April 15 and the reevaluation is due May 15 you may combine them but the meeting must be held by April 15 or the annual review is late.

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## When a Reevaluation is not Required

Reevaluations are not required before the termination of a child's eligibility from school with a regular diploma, or due to exceeding the age eligibility for FAPE under state law. [41.305(5)b]

However, at the time of graduation or termination due to age from special education services, the student must be provided a summary of the their academic achievement and functional performance which shall include recommendations on how to assist the child in meeting his/her postsecondary goals. [41.305(5)"b"] [41.305(5)"c"] See form, "Summary for Postsecondary Living, Learning, and Working" (pp.88-89.)

Reevaluations may not be conducted more than once per year, unless it is agreed upon by the parents and the AEA and LEA. [41.303(2)"a"]

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**Steps to Follow  
in the  
Reevaluation  
Process**

1. Determine when a reevaluation needs to be conducted. Take into account practical considerations, such as aligning the IEP review date with the reevaluation.
2. Begin the process in a timely manner. All required procedures in the reevaluation process must be completed and an IEP meeting with the parents must be held on or before the three year anniversary date of the last evaluation. [41.303]
3. Involve the appropriate people. The reevaluation process, including the review of existing information, is completed by the IEP team. The IEP team includes: [41.321]
  - The parents of the student
  - The student, if appropriate at any age or when required to be invited as a transition services participant [41.321(2)]
  - At least one regular education teacher of the child if the child is, or may be, participating in the regular education environment
  - At least one special education teacher of the child or, where appropriate, at least one special education provider of the child
  - A representative of the LEA who:
    - Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of eligible individuals
    - Is knowledgeable about the general education curriculum
    - Is knowledgeable about the availability of resources of the LEA
  - An individual who can interpret the instructional implications of evaluation results
  - Other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate.

In fulfilling the last two mentioned roles (above) for IEP team members, a reevaluation IEP team must include an AEA support staff professional because the determination of initial and continuing eligibility is an AEA responsibility. A person may fill more than one role on an IEP team.

4. Review existing information and consider need for additional assessment. "Existing information" comprises data contained in records and the input of individuals who are knowledgeable about the eligible individual.

As part of any reevaluation the IEP team and other qualified professionals, as appropriate, must review existing evaluation data on the eligible individual including [41.305(1)"a"]:

- Evaluations and information provided by the parents of the child
- Current classroom-based, local, or state assessments, and classroom-based observations
- Observations by teachers and related services providers

“Existing information” comprises data contained in records and the input of individuals who are knowledgeable about the eligible individual. Sources of existing information may include:

- Current IEP progress monitoring
  - Previous evaluation reports
  - School records
  - Work samples
  - Interviews
  - Data from outside agencies
  - Observations
  - District-wide assessments
  - Individual and classroom-based assessments
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**Procedures for  
Reviewing  
Existing  
Information in  
the  
Reevaluation  
Process**

The review of existing information does not require a meeting and does not require parental consent. [41.305(2)]

However, the review process must ensure the meaningful participation of all members of the IEP team, including the parents. Educators may make a proposal to the parents regarding the reevaluation (e.g., that no additional assessments are necessary) but they must seek parental input and response regarding the recommendation.

Parents should be informed if, in the gathering of existing information, the eligible individual will come into contact with professionals who do not have routine interaction with the student (e.g., an interview by the guidance counselor or AEA support staff)

Consider the need for additional assessment. [41.305(1)“b”] Based on this review the IEP team will identify what additional data, if any, are needed to determine:

- Whether the child continues to have a disability, and the educational needs of the child
  - The present levels of academic achievement and functional performance of the child
  - Whether the child continues to need special education and related services
  - Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP and, as appropriate, in the general education curriculum
-

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**Requirements if  
No Additional  
Information is  
Needed**

If the IEP team determines that no additional data are needed, the “Consent for/Notice of Evaluation” form must be completed in order to inform parents: [41.305(4)]

- The determination that no additional data are needed and the reasons for the determination
    - The LEA and AEA are not required to conduct additional assessments unless requested to do so by the parents
    - Parents do not need to sign the form when no additional assessment procedures are being requested
  - Their rights as parents to request additional assessments to determine whether the child continues to be a child with a disability and need for special education and related services
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**Requirements if Additional Information is Needed**

- If the IEP team determines that additional information is required, then the following must be done [41.304(1)]:
- The “Consent for/Notice of Evaluation” form must be completed and parental consent to evaluate must be obtained and documented by the signature on this form.
  - A copy of the “Procedural Safeguards Manual for Parents” should be made available and reviewed with the parents either in person or via phone.
  - Parents must be notified of their right to request assessments in addition to those proposed if they so desire.
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**Steps for Handling Parent Refusal for Additional Assessment**

- If the IEP team determines that additional assessment is necessary, and the parent refuses to provide the signed consent, the following steps should be followed:
1. Contact the parent to discuss their concerns with the reevaluation process. The contact may be made by any appropriate member of the IEP team.
  2. If the parent refuses to consent to the reevaluation and the IEP team has decided that additional assessment information is essential, the following options are available but should only be pursued with the knowledge and support of the Director of Special Education or designee
    - Pursue the reevaluation by utilizing the procedural safeguards including mediation. (This is not an option for children who are home schooled or placed in private schools by their parents at their own expense.) [41.300(4)“d”]
    - Decline to pursue the reevaluation with the knowledge that it does not violate the child find obligations in [41.111]
- 

**Reevaluation without parental consent**

- If reasonable efforts have been made to obtain parental consent and the parent has failed to respond, the reevaluation may be conducted without parental consent.
- “Reasonable efforts” requires that a record of attempts to secure consent be kept including:
- Detailed records of telephone calls made or attempted and the results of those calls
  - Copies of correspondence sent to the parents and any responses received
  - Detailed records of visits made to the parent’s home or place of employment and the results of those visits [41.322(4)]
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**What Happens at a Reevaluation Meeting**

A reevaluation IEP meeting is held to inform parents of the results of the reevaluation and determine the special education and related services to be delivered. A new IEP is written.

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**Procedures for a  
Reevaluation  
Meeting**

Procedures for the meeting:

1. Provide a "Meeting Notice" (see form on page 85) to the parent. This notice includes the purpose of the meeting and a mutually agreed upon date, time and location. Parents must be afforded opportunities to meaningfully participate in all meetings.
2. Provide a "Prior Written Notice of Action Proposed/Refused" (see form on page 75) to the parent if the district or AEA proposes to change the identification or placement, or change the provision of a free appropriate public education.
3. Document the reevaluation by answering the six reevaluation questions in the IEP

Documentation of the reevaluation is included in the IEP through the answers to six reevaluation questions. The questions, and the team's responses to the questions, are included on page R. A separate reevaluation report is not required.

Questions:

1. What progress has the student made, compared to peers or the expected standard, since the last evaluation?
2. What discrepancy, if any, still exists between the student's performance and that of peers or the expected standard?
3. What evidence is there that the student continues to need special education and related services in order to be successful?
4. What additions or modifications to the special education and related services are needed to enable the student to meet the IEP goals and to participate, as appropriate, in the general education curriculum?
5. Does the student continue to be eligible for special education services, based on the information contained in questions 1 – 4?  
☐ Yes      ☐ No      Explain (if further information is needed)
6. Under what conditions will the IEP team consider exiting the student from special education services?

For questions 1, 2, 3, 4, and 6 detail information for each goal area. For example:

1. What progress has the student made, compared to peers or the expected standard, since the last evaluation?  
    Reading  
    Math  
    Behavior
  2. What discrepancy, if any, still exists between the student's performance and that of peers or the expected standard?  
    Reading  
    Math  
    Behavior
-

## Amendments (With or Without a Meeting)

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### **Amending an IEP (Alternate "A" Page)**

An existing IEP may be amended. Amendments to an existing IEP may be made at an IEP meeting or, if the parent(s) and the LEA or AEA agree, the amendments to an existing IEP may occur without a meeting. [41.324(1)d]

Amendments to IEP's facilitate changes that need to be made in the child's program that arise between regularly scheduled annual review dates. Amending an IEP does not extend the duration of an IEP.

An existing IEP may be amended to make changes to a child's program, provided the team has collected and reviewed data sufficient to justify the proposed changes.

There are no restrictions on the use of amendments to make changes in a student's educational program or the kind of changes to an IEP that can be made without a meeting.

An existing IEP may be amended as often as necessary between required annual reviews. The determination to amend, rather than review an IEP, is mostly a practical one. The extent of the changes and the proximity to the IEP's anniversary date should be considered in making the decision.

It is necessary to ensure that all key members of the IEP team meaningfully participate in the amendment process.

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### **Steps for Amending an IEP**

Steps for amending an IEP:

1. Determine that changes that are needed in the existing IEP
2. Determine that changes can appropriately be addressed through the amendment process
3. Contact the parents to discuss the areas of potential change to the IEP and establish, through mutual agreement, whether or not a meeting will be held
4. If a meeting is not held, document by completing Alternate form A of the IEP which includes the following information:
  - Who has agreed to amend the IEP without a meeting, and
  - How the contact with the parents was made (the LEA or AEA must make a parent contact to amend the IEP without a meeting)
5. Consider those portions of the IEP where there are potential changes

6. Decide whether changes will be made.

**Note:** An AEA or LEA may only agree to changes in the IEP concerning the resources the AEA or LEA has the authority to commit. For example – an LEA cannot commit the services of personnel it does not employ such as an Occupational Therapist employed by the AEA.

7. Document those changes on the Amended IEP
8. Assure that all members of the child's IEP team are informed of the changes
9. Notify parents. The Prior Written Notice form is used to provide the parents with a summary of the specific change(s) made through the amendment and to provide the rationale and data that support the change(s.)

Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated. [41.324(1)f]

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## IEP Changes Matrix

	Reevaluation	Review	Amendment
<b>When is it Required</b>	<ul style="list-style-type: none"> <li>▪ Every 3 years</li> <li>▪ Exit from all special education services (other than graduation)</li> <li>▪ When requested by parent or teacher</li> <li>▪ IEP team determines reevaluation is needed</li> </ul>	<ul style="list-style-type: none"> <li>▪ At least annually</li> <li>▪ When requested by parent or team</li> </ul>	<ul style="list-style-type: none"> <li>▪ Not required, but can be used to make changes in student's program</li> </ul>
<b>Type of Changes Permitted</b>	<ul style="list-style-type: none"> <li>▪ Change of placement</li> <li>▪ LRE</li> <li>▪ Goal areas</li> <li>▪ Services to be provided</li> <li>▪ Virtually any other change is permitted</li> </ul>	<ul style="list-style-type: none"> <li>▪ Change of placement (other than exit)</li> <li>▪ LRE</li> <li>▪ Goal areas</li> <li>▪ Services to be provided</li> <li>▪ Virtually any other change is permitted</li> </ul>	<ul style="list-style-type: none"> <li>▪ Change is placement (other than exit)</li> <li>▪ LRE</li> <li>▪ Goal areas</li> <li>▪ Services to be provided</li> <li>▪ Virtually all other change is permitted</li> </ul>
<b>Documentation Requirements</b>	<ul style="list-style-type: none"> <li>▪ Consent for Notice of Reevaluation. Parent signature required if additional assessment information is to be collected</li> <li>▪ Meeting Notice</li> <li>▪ New IEP (Reevaluation)</li> <li>▪ *Six Reevaluation questions in IEP – documentation of data used to make decisions and justify changes</li> <li>▪ *Prior Written Notice of Proposed/Refused Action</li> </ul>	<ul style="list-style-type: none"> <li>▪ Meeting Notice</li> <li>▪ New IEP (review)</li> <li>▪ *Prior Written Notice of Proposed/Refused Action – documentation of data used to make decisions and justify changes</li> </ul>	<ul style="list-style-type: none"> <li>▪ Meeting Notice (if a meeting is held)</li> <li>▪ "Amendment" IEP</li> <li>▪ Prior Written Notice of Proposed/Refused Action – documentation of data used to make decisions and justify changes</li> </ul>
<b>Is a Meeting Required?</b>	<ul style="list-style-type: none"> <li>▪ Yes</li> </ul>	<ul style="list-style-type: none"> <li>▪ Yes</li> </ul>	<ul style="list-style-type: none"> <li>▪ Not required but a meeting must be held if either parent or agency requests it or if the amendment changes FAPE for the student</li> </ul>
<b>New IEP Written?</b>	<ul style="list-style-type: none"> <li>▪ Yes</li> </ul>	<ul style="list-style-type: none"> <li>▪ Yes</li> </ul>	<ul style="list-style-type: none"> <li>▪ No (web-IEP "Amendment IEP" is created.) Selected portions of existing IEP are unlocked and edited</li> </ul>
<b>Duration of IEP</b>	<ul style="list-style-type: none"> <li>▪ No more than one year</li> <li>▪ Reevaluation date (web IEP) "rolls ahead" three years</li> </ul>	<ul style="list-style-type: none"> <li>▪ No more than one year</li> <li>▪ Reevaluation date remains three years from last evaluation</li> </ul>	<ul style="list-style-type: none"> <li>▪ Reevaluation date remains three years from last evaluation</li> <li>▪ "Duration from" date changes</li> <li>▪ "Duration to" date remains the same as existing IEP</li> </ul>

# Interim IEP

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## Interim IEP

When the IEP team determines that it is necessary to temporarily provide special education, support and related services to an individual an interim IEP may be developed.

Interim IEPs must meet the same requirements that all IEPs must meet. IEP teams cannot use interim IEPs to circumvent these requirements.

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## When Can an Interim IEP be Used?

**Interim IEPs may only be used for students who have already been determined to be eligible for special education services.**

Interim IEPs may be used to temporarily provide special education and related services in the following situations: [41.324(5)]

- As part of the evaluation process
  - Before the IEP is finalized
  - To aid in determining the appropriate services for the individual
  - When an eligible individual has moved from one LEA:
    - And a copy of the current IEP is not available
    - Either the LEA, AEA, or the parent believes that the current IEP is not appropriate
    - Additional information is needed before a final decision can be made regarding the specific special education and related services that are needed
- 

## How Long Can an Interim IEP be Used?

An interim IEP shall not be in place for more than 30 school days. [41.324(5)a]

An interim IEP may be replaced by another interim if the purpose (completing an evaluation, gathering additional information, obtaining records from a previous school or service provider, etc.) for which an interim was originally written has not been accomplished within 30 school days. However, IEP teams must keep in mind that the Rules also state:

“It is essential that the temporary provision of service not become the final special education for the individual before the IEP is finalized.” [41.324(5)]

Clearly, interim IEPs are intended to serve a temporary purpose. While it is possible to replace one interim IEP with another, this should be a very uncommon occurrence.

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## IEP Teams and Meeting Attendance

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**IEP Participants** IEPs are developed at meetings that include the participation of a number of key individuals. [41.321(1)]

Meeting participants fill a set of required roles on the team. After an initial IEP is developed, a meeting must be held at least once a year to review and revise the IEP. [41.324(2)]

The IEP may be amended without a meeting when the parents and school or AEA agree to do so and this agreement is documented in the IEP. [41.324(1)“d”]

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**Participants:  
Required Roles** The LEA shall schedule IEP meetings at a mutually agreed upon time with the child’s parents as well as the appropriate local school and AEA personnel. [41.322(1)]

An IEP team (for an eligible individual ages three through twelve) requires a minimum of five **roles** that must be filled: [41.321(1)]

1. A parent
2. An individual who can interpret evaluation results
3. An agency representative who:
  - Is qualified to provide or supervise the provision of special education
  - Is knowledgeable regarding the general curriculum
  - Is knowledgeable regarding available resources, and
  - Is authorized to commit agency resources

**Note:** If the IEP will be implemented in a setting outside of the resident district, both the attending and resident district should be represented at the IEP meeting

4. A general educator (if the student is, or may be, participating in the regular education environment,) and
5. A special education provider.

By age 14: [41.321(2)]

- Students must be invited to attend IEP meetings and, if not in attendance, provisions must be made to take into account the student’s interests and preferences.
- The LEA or AEA shall also invite a representative of any other agency that is likely to be responsible for providing or paying for transition services. Parent permission, or permission of a student who has reached age of majority, must be obtained to invite an outside agency that is not currently providing services to the student.

For the IEP meetings of students of any age, the student may be invited to participate. Also, the parents, the school, or the AEA may invite other individuals

who have knowledge or special expertise regarding the student. If the parent invites such an individual, the parent determines whether that individual has the required knowledge or expertise. If the AEA or LEA invites such a person, the AEA or LEA determines whether that individual has the required knowledge or expertise. [41.321(1)“f” “g”]

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**Essential IEP  
Team Member:  
General  
Education  
Teacher**

The IEP team for each child with a disability must include at least one general education teacher of the child if the child is, or may be participating in the general education environment.

The involvement of the general education teacher is essential for ensuring each child’s educational experience is a success. It is also important for IEP teams to consider and discuss the services and supports during the development, review and revision of an IEP in order to enable a child to be educated with children without disabilities to the maximum extent appropriate.

**Note:** A person may serve in more than one role at an IEP meeting. An individual may serve as the special education teacher and general education provider **if** the individual is both a general education **teacher of the child** and a special education **provider of the child** (e.g., a high school teacher who serves as a special education teacher part-time and a social studies teacher part-time and teaches the student in both roles).

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**General  
Education  
Teachers for  
Children Ages  
3 – 5**

The general education teacher for a preschool child is an individual who holds a valid practitioner’s license issued by the Board of Educational Examiners under Chapter 272 and holds an endorsement that includes prekindergarten for preschool child or kindergarten for kindergarten child.

The general education teacher may be employed by a private provider or other public agency such as a community preschool child care center or Head Start program as long as they hold the appropriate teaching endorsement. The teacher is not required to be an employee of the resident or attending district.

***General education endorsements for early childhood education are:***

- 100 teacher – Prekindergarten through grade three, including special education
  - 103 teacher – Prekindergarten through kindergarten
  - 106 teacher – Prekindergarten through grade three, and
  - 102 teacher – Elementary classroom kindergarten through grade six (for children in kindergarten)
- 

**Overlapping  
Roles**

The required roles may be filled individually by IEP team participants or by participants serving in multiple roles.

For example, an individual who can interpret evaluation results and an agency representative are *roles*, not necessarily *people*.



Special education teachers and support service providers are trained to interpret evaluation results. Agencies, both school districts and AEAs, may authorize an educator who meets the qualifications to serve as the agency's representative. [41.321(4)]

Even "parent" is a role that is typically filled by a biological or adoptive parent, but may also be filled by: [41.30(1)]

- A foster parent
- A guardian (but DHS may not act as a child's guardian)
- An individual acting in the place of a biological or adoptive parent including
- A grandparent
- Stepparent, or other relative with whom the child lives
- An individual who is legally responsible for the child's welfare, or
- A surrogate parent

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**Who Might Be Involved?**

Depending upon the nature of the child's needs, persons involved may include: [41.321(1)"f"]

- The principal
- General education teacher
- Special education teacher
- School nurse
- Counselor
- School psychologist
- Speech-language pathologist
- Audiologist
- Physical therapist
- Occupational therapist
- School social worker
- Special education consultant
- Educational interpreter, and
- Other support personnel

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**Completing The IEP Development Process**

The IEP development process is complete when all discussion, decision making and commitment of resources that is required of IEP teams is finished through the meeting process or through the amendment without a meeting process.

**When a meeting is held** (initial, review or reevaluation IEPs; IEP amendments with a meeting), all discussions, decision making and commitment of resources must occur within the context of the IEP meeting. If discussion, decision making and commitment of resources is not completed, the team must reconvene.

**When a meeting is not held** (amendments without a meeting) all discussions, decision making and commitment of resources must include communication with the parents and/or age-of-majority student and all IEP team members whose participation is relevant to the part(s) of the IEP being amended. If it becomes apparent that discussion, decision making and commitment of resources cannot be completed without meeting, the IEP team must convene.

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**Put the IEP into Effect**

When the IEP development process is completed, the LEA and/or AEA must:

- Provide all agreed-upon services and supports to the eligible individual:
  - immediately following the meeting, **or**
  - immediately upon parent receipt of documentation of an amendment without a meeting, **or**
  - on a date specified in the IEP, **or**
  - on the date specified in a Prior Written Notice.
- Inform all relevant parties of their responsibilities immediately or, if a delay in implementation is known (e.g., time is need to make transportation arrangements, the IEP will be implemented following a school break, etc.), inform all relevant parties as soon as practicable.

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**Provide an IEP Draft to the Parents**

Provide parents a copy of a draft IEP:

- at the conclusion of the IEP meeting, **or**
- when an amendment is completed, **or**
- within five (5) school days of an IEP meeting or completion of an amendment.

Inform the parents of when they will receive a draft copy of the IEP.

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**Finish the IEP Documentation Process**

If the IEP documentation was not completed at an IEP meeting, finish the IEP and any related documents. In completing documentation, keep in mind that:

- The IEP, as developed by the IEP team, will be in use immediately or at a time determined by the IEP team.
- The IEP submitted on the web will be proofread and reviewed for accuracy of information.
- Any changes made to the IEP without a meeting or amendment process may not be substantive.
- Any substantive changes proposed during the review must be discussed at a subsequent IEP meeting or through an IEP amendment process.

Submit the IEP on the web

Complete the AEA IEP review processes.

Implement the IEP on the web.

Send parents a copy of the final IEP document(s) and distribute the final IEP document(s) to others who are to be sent a copy within 30 calendar days of the meeting or completion of an amendment without a meeting.

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**Meeting Notice**

The LEA shall send a *Meeting Notice* form to the parents indicating the time and the purpose of the meeting and who will be present. [41.322(2)]

By age 14, or sooner if appropriate, the *Meeting Notice* should indicate that transition planning is one of the meeting's purposes. The student will also be invited to this meeting. [41.322(2)"b"]

Attempts should be made to schedule the meeting at a mutually agreed upon time. The parents (and the eligible student if appropriate) should receive the notification early enough to give them an opportunity to attend. Ten calendar days is considered to be a reasonable amount of time unless another time and date is found. If the parent cannot attend, a second meeting should be scheduled and another notification will be made and documented. [41.322(1)] A meeting may be held without a parent if the parent is unable to attend. The public agency must keep a record of attempts to arrange a mutually agreed upon time. [41.322(4)]

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**Documenting Meeting Notice**

The LEA or AEA must document attempts to set a mutually agreed upon time and place for an IEP meeting with parents. These records, which must be part of the child's cumulative file, might include:

- Detailed records of telephone calls made or attempted and the results of those calls
- Copies of correspondence (including meeting notices) sent to the parents and any responses received
- Detailed records of visits made to the parent's home or place of employment and the results of those visits

It is recommended that two attempts be made to have an IEP meeting with parents attending. It is important that if a parent does not attend either of the first two scheduled meetings those meetings should be cancelled.

If parents do not attend either of the first two scheduled meetings a third meeting notice should be sent and the IEP meeting held even if the parents do not attend.

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**Parent Non-Attendance at IEP Meeting**

The school district may use other methods (e.g. conference telephone calls) to ensure parent participation in the development of the IEP. If the parent does not attend, or has declined to attend an IEP meeting, they must be informed of: [41.322(3)] [41.328]

- Any recommended change in placement
- The reasons for the recommended placement
- Other educational options in the school program, and
- Their right to appeal the decision of the IEP team

Any changes to the IEP require a Prior Written Notice form.

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**Agreement to  
Excuse  
Attendance at  
an IEP Meeting**

An individual filling an LEA or AEA role, including either educator role may, under appropriate circumstances, be excused. There are two ways these IEP team members can be excused:

- An IEP team member's attendance is not necessary. This means that the member's area of expertise is not being discussed. For example, the speech-language pathologist may be excused from a meeting where the IEP is being amended in the area of math instruction.
- The IEP team member's area of expertise will be discussed and his/her input will be provided in writing.

In both situations, the parent and the school or AEA must agree in writing that the team member does not need to attend the IEP meeting. This agreement is documented on the *Agreement to Excuse Attendance at IEP Meeting* form.

If the parent does not agree, an IEP meeting must be scheduled when the IEP team member in question is able to attend. If parents are going to be asked to sign the *Agreement to Excuse Attendance at IEP Meeting* form at the IEP meeting, they should be contacted by phone or e-mail prior to the meeting to determine their agreement. If a request is made to excuse an IEP team member at the meeting and the parent does not agree, the meeting is discontinued and rescheduled at a time when the individual in question is able to attend. It is important to secure parent consent in a timely manner so that annual review and reevaluation timelines are met.

**Note:** Non-required participants who are part of the IEP team but cannot attend the IEP meeting should provide their input to the IEP team, but no *Agreement to Excuse Attendance at IEP Meeting* form is required.

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## Preparation for IEP Meetings

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### **What to Bring to an IEP Meeting**

Data regarding student progress should be collected on an ongoing basis and be made available to the IEP team. Information that would be helpful to bring to an IEP meeting includes:

- Highlights of the general education curriculum
- Copies of district standards and benchmarks as well as information about:
  - Methods of instruction
  - Materials and media
  - Assessments
  - Grading strategies
  - Classroom management
  - Assessment information
  - Recent districtwide assessment results
  - Classroom assessments
  - Recent evaluations
  - Progress monitoring data
  - Data to validate accommodations

Preparation for an IEP meeting may also include various members of the IEP team preparing drafts of suggestions for the IEP. These may be recorded on IEP forms, but each must be clearly labeled “draft” and presented in such a way that all IEP members have an opportunity for input or to make additional suggestions.

[41.322(7)]

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### **The Importance of Attendance at IEP Meetings**

An IEP meeting offers an opportunity for a team of individuals to make critical decisions about a student’s educational program.

It is important that all team members come to the meeting prepared to share information and make decisions about the student’s IEP. Each member of the IEP team has a critical role to play in the IEP process.

A description of responsibilities for each member of the IEP team is included below.

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### **Parent Responsibilities at IEP Meetings**

Parent responsibilities include:

- Share information regarding their child’s strengths, interests, and preferences
- Identify their concerns and hopes regarding their child’s education
- Share information regarding their child’s present level of academic achievement and functional performance (PLAAFP)
- Assist in development of IEP goals
- Assist in developing positive behavioral instruction and strategies
- Assist in identifying the full range of supplementary aids and services the student may need to be successful in the regular education classroom and elsewhere
- Identify any supports that they might need in order to assist in the

implementation of the IEP

- Ask questions (who, what, where, why) to acquire information about the IEP meeting and the programming for their child

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**Student  
Responsibilities  
at IEP Meetings**

Student responsibilities include:

- Share information regarding strengths, interests, and preferences
- Provide input into all aspects of the IEP
- Assist with all aspects of the process when appropriate

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**General  
Education  
Teachers  
Responsibilities  
at IEP Meetings**

General education teachers responsibilities include:

- Share information regarding the general curriculum and the general education classroom environment
- Share information about the student's progress and current performance
- Assist in developing positive behavioral instruction and strategies
- Assist in identifying the full range of supplementary aids and services, and program modifications that are needed to:
  - Support the student's advancement toward attaining annual IEP goals; and
  - Support the student's involvement and progress in the general curriculum and general education environment, as well as participation in extracurricular activities
- Identify any supports that the general education teacher might need in order to assist in implementation of the IEP
- Assist with all aspects of the IEP process when appropriate

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**Special  
Education  
Teachers and  
Service  
Providers  
Responsibilities  
at IEP Meetings**

Special education teacher and service provider responsibilities include:

- Share information regarding the students' present levels of academic achievement and functional performance (PLAAFP)
  - Share information regarding progress toward identified goals
  - Provide suggestions for maximizing the extent to which the student is educated with nondisabled students
  - Share information regarding accommodations and modifications to the general curriculum and the general education classroom environment
  - Assist in developing positive behavioral instruction and strategies
  - Assist in identifying the full range of supplementary aids and services the student may need to be successful in the regular education classroom and elsewhere
  - Assist in the development of IEP goals and objectives
-

**Principals  
and/or LEA Rep  
Responsibilities  
at IEP Meetings**

Principals and/or LEA representative responsibilities include:

- Facilitate the meeting and encourage participation by all IEP team members, or designate another team member to fulfill this role
  - Assist in identifying positive behavioral instruction and strategies
  - Assist in identifying the full range of supplementary aids and services the student may need to be successful in the regular education classroom and elsewhere
  - Act as district designee to commit resources
  - Assist with all aspects of the IEP process when appropriate
- 

**Other  
Participants  
Responsibilities  
at IEP Meetings**

Other participant responsibilities include:

- Share information pertinent to IEP development
  - Assist in developing positive behavioral instruction and strategies
  - Assist in identifying the full range of supplementary aids and services the student may need to be successful in the regular education classroom and elsewhere
  - Make linkages to outside agency services
  - Assist with all aspects of the IEP process when appropriate
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## Development of an IEP

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### **Five Phases to Developing an IEP**

IEP development consists of five phases:

1. Identify present levels of academic achievement and functional performance,
  2. Develop well-written goals and effective progress monitoring strategies,
  3. Describe special education services, activities and supports,
  4. Consider the least restrictive environment (LRE), and
  5. Communicate responsibilities and progress.
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## PLAAFP (Present Levels of Academic Achievement and Functional Performance)

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### What is PLAAFP?

The present levels of academic achievement & functional performance (PLAAFP) consist of a summary that describes the student's current status in the areas of need. [41.320(1)"a"]

The statement of the "present levels of academic achievement" enables families, students, and educators to monitor student progress in the general curriculum (including the LEA's implementation of the Iowa Core Curriculum.)

The "present levels of functional performance" provide a description of how the student applies his or her skills.

For preschool children, the PLAAFP describes how the disability affects the child's participation in age appropriate activities.

PLAAFP development is the most crucial phase in the creation of an appropriate IEP.

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### Content of the PLAAFP

This process specifically addresses the student's strengths, interests, and preferences and includes effective approaches and instruction that enable student success.

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### Who Develops the PLAAFP

Developing the PLAAFP collaboratively assures the involvement of the family, student, and educators in planning the student's education.

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### Components of the PLAAFP

The PLAAFP links these three components:

- Evaluation results
- The expectations of the general curriculum, and
- The goals for the student

The PLAAFP must address the student's transition whenever appropriate, but at least by age 14. Therefore, these transition needs must be addressed at the IEP meeting of a student who is age 13 when the IEP is written, and who will turn 14 while the IEP is in effect.

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**What Does the PLAAFP Do?**

The PLAAFP:

- Explains the needs of the student and states how the student's disability affects his/her involvement and progress in the general curriculum.
- Summarizes and translates evaluation results into clear, understandable language.
- For preschool children explains how the disability affects the child's participation in appropriate activities.

Through this process the specific needs of the student are identified and prioritized.

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**Importance of the PLAAFP**

Every goal included on a student's IEP must relate to a need identified in the PLAAFP. The evaluation of the student's progress toward these goals guides instructional planning; therefore PLAAFP development is the most crucial phase in the creation of an appropriate IEP.

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## Four Parts to Developing a PLAAFP

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### **Four Parts to Developing a PLAAFP**

There are four steps to the process of developing a PLAAFP:

1. Establish Context of Discussion
  2. Identify Special Considerations
  3. Describe the Overall Performance
  4. Establish Priority Needs
-

## PLAAFP Development - Part One: Establish Context of Discussion

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### **Overview: Establish Context of Discussion**

The context of the discussion during the IEP meeting is established by sharing information concerning: [41.324(1)a]

- Student strengths
- Student interests
- Student preferences
- Parent concerns

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### **Defining Student Strengths**

Strengths are general things the student is good at doing.

For preschool children this may include strengths associated with the developmental skills addressed in the Iowa Early Learning Standards.

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### **Defining Interests**

Interests are things, events, or people that evoke the student's curiosity.

For preschool children this may include interests associated with their daily activities.

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### **Defining Preferences**

Preferences are things, events, or people that the student chooses above others. These are not limited to the needs of the student in the school setting.

For preschool children this may include their choice of participation in centers or activities at home.

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### **Critical Role of Parent**

An opportunity for parents to express their concerns regarding the education of their child is a required component of the IEP. [41.324(1)"a"(2)]

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## PLAAFP Development - Part Two: Identify Special Considerations

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### Identify Special Considerations

When developing an IEP, the team considers many variables in order to develop an appropriate educational program. The IEP Team must give specific consideration to certain potential student needs. [41.324(1)“b”]

These specific considerations include:

- Behavior concerns
- Limited English proficiency
- Braille needs
- Communication and language concerns
- Assistive technology needs
- Health needs

Also, the IEP team considers whether a student requires specialized formats:

- Braille materials
- Large print
- Audio
- Digital text

To the extent possible, the IEP team identifies all areas of special consideration appropriate to the individual prior to the discussion of goals and objectives. This is done to ensure that the educational program that is developed thoroughly addresses the student’s needs.

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### Behavior Concerns

The IEP team must decide if behavior is a concern for the student.

They do this by determining if the student’s behavior impacts his or her overall learning or the learning of other students.

The team considers the use of positive behavioral interventions or other strategies to address the behavior. The way the behavior will be addressed must be documented on the IEP.

If there are behavior concerns, this is documented either in the IEP or through a Functional Behavior Assessment and Behavior Intervention Plan.

If behavior is not a concern, then is it documented in the IEP? If a Functional Behavioral Assessment and/or Behavior Intervention Plan are completed, they must be attached to the IEP. [41.324(1)b(1)]

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**Limited English Proficiency**

In the case of a child with limited English proficiency, the IEP team must consider the language needs of the child as they relate to the child's IEP. This must be documented on the IEP. [41.324(1)b(2)]

The IEP team must decide if limited English proficiency is a concern in addition to the student having a disability. If so, the IEP team must determine that special education services and supports are needed related to limited English proficiency.

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**Braille**

For students who are blind or visually impaired, instruction in Braille should be provided unless the IEP team determines that it is inappropriate.

This is determined following an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media. The child's future needs for Braille instruction should be taken into consideration. [41.324(1)b(3)]

Once determined whether Braille will be provided, this information must be documented on the IEP.

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**Assessments for Blind or Visually Impaired Students**

All students should receive a learning media assessment (LMA) to determine the current reading and writing media (Braille, large print, dual print media, and regular print with optical devices or regular print without optical devices) best suited to the students. (See information below regarding primary and secondary learning mediums.)

All students are given assessments in the nine priority content areas of the [Iowa Expanded Core Curriculum](#) (Iowa Expanded Core Curriculum Procedures Manual pp. 29-35.)

Students with any functional vision should have a functional vision assessment (FVA) to determine how the student uses the remaining vision in a variety of educational settings. It is critical to evaluate the status of a student's visual abilities at least every three years.

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**Primary Learning Medium**

A primary learning medium:

- Is the medium most frequently used by a student with a visual impairment during classroom instruction
  - Can also be used in a wide variety of settings inside and outside the classroom
  - Permits independence and efficiency in both reading and writing
  - Will become a primary living medium
  - Must accommodate academic, nonacademic, and vocational needs and be applicable to adult activities following the completion of school
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**Secondary Learning Medium**

A secondary learning medium:

- Is a medium that is learned in order to allow a student with visual impairment to perform specific tasks not easily performed in the primary learning medium
  - May alleviate fatigue experienced when using the primary learning medium for extended periods of time
  - May be appropriate when a visual prognosis indicates a future loss of vision and, therefore a changing learning medium
  - May also be appropriate when functional assessment criteria suggest the student may benefit by using different media under some conditions
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**Communication Plan**

The IEP team must decide if communication and language is a concern for the student.

A Communication Plan is a required [IEP](#) component for any student with a hearing loss who is receiving a service, support or activity from an audiologist and/or teacher of the deaf and hard of hearing. When appropriate communication or language plans may also be written for students with profound speech difficulties. The components of a communication plan may be embedded with an IEP or attached as a separate document.

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**What is Included in a Communication Plan?**

The communication plan:

- Provides information regarding the student's mode of communication
  - Addresses the student's language needs
  - Addresses the student's communication needs
  - Addresses the student's academic level
  - Addresses the student's full range of needs
  - Describes opportunities for direct communication with peers and professionals
  - Describes opportunities for direct instruction in the child's language and communication mode, and
  - Incorporates all of this information into the development of the IEP
- 

**Who Completes the Plan and When**

The IEP team completes the communication plan during the IEP meeting. Team members bring information to facilitate completion of the plan.

The educational audiologist and/or teacher of the deaf and hard of hearing must be a member of the team.

If the child utilizes an educational interpreter, it would be appropriate to also invite him/her.

A draft communication plan may be developed prior to consideration of IEP goals and service planning as this information would be helpful for the IEP team as they complete the IEP process. If a draft communication plan is developed prior to the IEP meeting, it must be provided to the parents before the meeting.

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**Assistive  
Technology**

The IEP team must decide if the student requires assistive technology.

This is done by determining if assistive technology is required in order for the student to access the general education curriculum.

When assistive technology will be provided for the student this must be documented in the IEP. If it is not needed, this also must be stated in the IEP.

A child's IEP team must determine if the child needs access to a school purchased assistive technology device in the child's home or other settings in order to receive FAPE.

[41.324(1)b(5)]

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**Health Needs**

The IEP team must decide if health needs are a concern for the student.

This is accomplished by determining if the student has health needs that require intervention, procedures, or services in order to access education.

The way in which the health needs or concerns will be considered must be documented on the IEP. It should be documented if the health needs will be addressed only in the IEP or through a health plan. If health needs are not a concern, this also must be stated.

A student's health plan must be part of the student's health record. [41.405]

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**Other  
Information**

In developing the PLAAFP, the team records important information that might not be recorded elsewhere in the IEP. This is recorded in the IEP section *titled Other Information Essential for the Development of the IEP*.

Written expression, for example, may be a concern for the IEP team, but not a need for this year. These are all examples of information that might be included in special considerations:

- Medical and evaluation information
  - Updates of the status of discontinued goals, and
  - Successful instructional strategies
-



## Print Disability Procedures

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### **Print Disability and the Need for Specialized Formats**

Currently, PLAAFP development includes indicating whether a student is NIMAS eligible, only. However, the IEP team should engage in the broader discussion of whether the individual has a print disability, NIMAS eligibility, and need for specialized materials.

See also, Accessible Instructional Materials – The Decision-making Process, below

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### **Questions to Ask in Determining a Print Disability**

Ask the following questions to determine a print disability:

- Does the student require specialized formats (Braille, large print, audio, digital text) of printed textbooks and core related instructional materials that are written and published for use in elementary and secondary school instruction?
  - What printed textbooks and core related instructional materials are being used in the student's classes?
  - Can this student use these materials effectively for educational achievement?
  - If the information in the printed materials were provided to the student in a specialized format, would the information contained in the material be useful for the student?
- 

### **Review the Student's Evaluation Information**

Review the student's evaluation information and present levels of achievement to determine whether the student has a difficulty with the task of gaining meaning from print-based core instructional materials used in academic content areas.

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### **Check the Iowa Library for the Blind and Physically Handicapped Database**

Check the Iowa Library for the Blind and Physically Handicapped database (800-362-2587) to see if the student has been certified as having a print disability by a competent authority based on:

- Blindness or visual impairment
  - Physical limitations that prevent the reading of standard printed material
  - Organic dysfunction of sufficient severity to prevent reading printed material in a normal manner
- 

### **What to Do if the Student Has Been Previously Certified as Having a Print Disability**

If the student has been previously certified as having a print disability and is eligible for specialized formats under the Copyright Act as amended, the team:

- Initiate steps for obtaining materials in the required formats in a timely manner using the Iowa Department for the Blind (<http://www.blind.state.ia.us/library>)
  - Identifies instruction, supports, services, and/or training that will be needed by the student and others to use the materials effectively
-

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**What to Do if the Student Has Not Been Previously Certified as Having a Print Disability**

If the student has not been previously certified as eligible for specialized formats under the Copyright Act as amended, the team:

- Considers whether the student’s difficulties with print disabilities are due to lack of sufficient instruction or limited English proficiency
  - If the answer to either of these questions is “yes,” specialized instruction may be more appropriate than materials in specialized formats
  - If the answer is “no,” and the student is not eligible for specialized formats under the Copyright Act as amended, the team might see if the student can be certified by a medical doctor (MD) or doctor of osteopathy (DO) as having a “reading disability based on an organic dysfunction” by using the Physicians Form developed by the Iowa Center for Development and Disability.
    - Costs associated with this form can be paid for using special education dollars. If the physician indicates “yes” on the form, then the form must be sent to the library at the Department of the Blind. It may be emailed to [library@blind.state.ia.us](mailto:library@blind.state.ia.us) or mailed to 524 Fourth Street, Des Moines, IA 50309-2364. This student’s IEP should be marked as NIMAS eligible
- If the physician marks “no” and the team feels that the student needs materials in a specialized format but the student is not eligible under the Copyright Act as amended, the team should follow state guidance on how to acquire the needed specialized formats for this student.

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**Documenting on the IEP**

If a student with a print disability does need a specialized format as a special education service or support, the IEP must specify the following:

- The specific format(s) to be provided (Braille, large print, audio, or digital text)
- The services and/or assistive technology the student needs to use the specialized formats
- The instruction, supports, and other services, and/or training that will be needed by the student and others to use the materials effectively
- The individual or individuals responsible for providing the specialized format(s)
- Whether the format is required to be used in the student’s home or in other settings in order for the student to receive a free and appropriate education

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**NIMAS Eligibility and Documentation on the IEP**

If the student is NIMAS eligible under the Copyright Act as amended, check the “NIMAS eligible” box on the IEP.

If the student is not NIMAS eligible under the Copyright Act as amended and the team feels the student has a print disability and requires specialized formats, indicate this on these services page of the IEP.

If students do not use, handle, or read textbooks or core related instructional materials then the NIMAS box on the IEP should be checked “no.” The reason for this is that NIMAS relates to copyrighted instructional material. If a student does not use such materials, “no” is the appropriate indication.

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**Accessible  
Instructional  
Materials**

An AEA or an LEA, when purchasing print instructional materials, must acquire those instructional materials in accessible forms for children who are blind or have a print disability.

The Instructional Materials Center (IMC), a part of the Iowa Library for the Blind and Physically Handicapped at the Iowa Department for the Blind (IDB), is charged with providing accessible instructional materials (AIM) for students who have print-disabilities. See pages 99-100 for information regarding the IMC’s services and procedures.

Students in need of accessible instructional materials must receive them at the same time as students receive instructional materials.

The AEA or LEA must provide accessible instructional materials for students who need such materials but do not fit under the definition of blind persons or other persons with print disabilities. [41.210(4)a]

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**Further  
Information**

National Instructional Materials Access Center or NIMAC

<http://www.nimac.us/>

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## Accessible Instructional Materials – The Decision-making Process

The Instructional Materials Center (IMC), a part of the Iowa Library for the Blind and Physically Handicapped at the Iowa Department for the Blind (IDB), is charged with providing accessible instructional materials (AIM) for students who have print-disabilities. The role of the IMC is discussed on the IDB website, here:

<http://www.idbonline.org/library/student-resources>.

A wealth of information on AIM, responsibilities, eligibility, and resources is available at:

<http://trueaim.iowa.gov/>.

The following information outlines the IMC's decision-making process when accessible instructional materials are ordered for a student. IMC librarians have a variety of resources from which materials can be obtained, either through purchase or production. Because each student's abilities and needs are unique, the IMC endeavors to provide materials in the child's preferred format or medium. In some cases, issues of complexity of material, timeliness, or lack of production capacity or capability may affect the IMC's ability to obtain a given format. This document describes how the IMC librarians handle each request. For more information on acquisition of AIM, request processing, and tips to improve timeliness, see:

[http://trueaim.iowa.gov/index.php?option=com\\_content&view=article&id=4&Itemid=11](http://trueaim.iowa.gov/index.php?option=com_content&view=article&id=4&Itemid=11).

1. Teachers, AEA personnel, or parents place orders for AIM, indicating first and second preference of media. Note that "second preference" means "I will accept this medium if my first choice is not available." The most efficient means of sending requests is to use the online order form:  
<http://www.idbonline.org/form/imc>.
2. Title is searched in all known possible sources, checking for medium of choice.
3. If title is located already produced from another source, several questions are asked:
  - a. Can it be purchased (or borrowed) in the preferred medium?
  - b. Is it available in the second choice?
  - c. Is it available in a medium the student *can read* (such as hard copy Braille), even though electronic might be preferred?
  - d. Is it available in an alternate medium (such as audio) or a different edition that might be acceptable? (Consult with teacher and student.)
4. If hard copy Braille is available for purchase and the source will not provide their electronic files, the IMC does not have the capacity to re-Braille the item just to provide it in electronic form.
5. If audio would be preferred over hard-copy Braille (if electronic Braille is not available), be sure to enter "audio" under second choice.
6. If audio is not already available, but the hard-copy Braille is, the student can choose between getting the Braille right away or having the Library produce the audio, which could take several months depending upon the material requested.
7. If the IMC can provide a format that is a secondary but fully accessible choice for the child, but the IEP team rejects the format because it is not the primary or preferred option, it is not the responsibility of the IMC to find or produce the preferred format.

8. If the IMC cannot find a text in either primary or secondary format, the IMC Librarian will work with the teacher to determine next steps, with the understanding that the production will take a certain amount of time. The Librarian will discuss possible formats and estimated time lines. (Note that the teacher will need to provide a print copy of the book.)
9. If NIMAS files are available, they can be converted to several different formats, including hard copy Braille, electronic Braille, Kurzweil, DAISY text, and ePub (a form of HTML that can be read on an iPad, iPhone, or iPod Touch, or some other e-readers). For a definition of NIMAS and further information on this topic, see:  
[http://trueaim.iowa.gov/index.php?option=com\\_content&view=article&id=6&Itemid=6#nimas](http://trueaim.iowa.gov/index.php?option=com_content&view=article&id=6&Itemid=6#nimas).
10. If an item is available from Bookshare, it can be obtained in either .brf (electronic Braille) or DAISY text. It can also be converted to HTML for use on an iPad by following instructions provided by Bookshare, or the IMC can convert the Bookshare files to ePub. The fastest way to receive an item from Bookshare is for the teacher to download it for the student. For information on Bookshare, see its website:  
<http://www.bookshare.org/>.
11. Previously, it has been stated that the IMC could provide HTML, but the reality is that, if a book is not available from the NIMAC or Bookshare, it is not possible to produce it in HTML in a timely or efficient manner. The time and labor of scanning and coding entire books is beyond the scope of the production team's capacity.
12. The Department of Education will reimburse the Department for the Blind for items purchased or produced for preK-12 students. Educational or vocational items for library patrons (non-students, such as adult staff) will be produced at no charge to the patron. If the item is available for purchase from another source, and it is for the patron's job, it should be considered a reasonable accommodation and be purchased by the patron's employer.
13. The Library can produce items in Braille, large print, audio (on digital cartridges for the new NLS player), or in particular cases, in electronic formats, including .brf, Kurzweil, text-based DAISY, HTML (see above #9-11), and mp3.
14. Locally recorded items can be converted from digital files to mp3 on request, but the mp3 files cannot be protected. This is technically a violation of copyright, so it is extremely important that the mp3 files only be used by the eligible student. Also, mp3 files cannot be navigated easily, in the manner of digital books.

## PLAAFP Development - Part Three: Describe the Overall Performance

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### Describe the Overall Performance

The student's overall performance is a summary of current performance and assessment information relative to the effect of the student's disability on: [41.320(1)a]

- Involvement and progress in the general curriculum and the functional implications of student skills; and
- For the preschool child, participation in age-appropriate activities

This information is recorded in the IEP section "Describe the effect of this individual's disability or involvement in the general curriculum and functional implications of student's skills."

---

### Defining Curriculum

The term "curriculum" refers to the content of all courses of study offered by the district, not the places where the curriculum is provided (e.g., classroom, community, etc.)

The general curriculum (including the LEA's implementation of the Iowa Core Curriculum) is the same curriculum for all students. A separate special education curriculum does not exist.

(Note: A general curriculum may not always be available for all preschool children).

---

### Three Components Required in Curriculum Structure

At least three components are required within a curriculum structure as established by Chapter 12 of the Iowa Administrative Code:

- Student learning goals
  - Content standards, and
  - Benchmarks
- 

### Defining Three Components Required in Curriculum Structure

Student learning goals

- General statements of expectations for all graduates.

Content standards

- These general expectations are further articulated into content standards that are broad statements about what students are expected to know and be able to do.

Benchmarks

- Specific knowledge and skills anchored to content standards that specify what a student needs to accomplish by a specific grade or grade span. Some

districts have identified extended benchmarks, which are benchmarks that are linked to specific content standards but not linked to specific grade or grade spans.

---

**Other Skills to  
be Addressed**

The functional implications of student skills must also be addressed.

This requires IEP teams to think about functional performance as being how the student uses the skills (academic, emotional, vocational) that he or she has acquired.

Considering functional performance should not be limited to students with low cognitive abilities or students with severe behaviors.

---

# PLAAFP Development - Part Four: Establish Priority Needs

<b>Establish Priority Needs</b>	<p>Priority is established in those areas for which services and supports will be needed.</p> <p>Goals will be written for those areas of need that will have a specific learning outcome (reading skills development, self-care independence, etc.).</p> <hr/>
<b>Determining Goals</b>	<p>In some need areas, goals are not written. For example, transportation may be a need area, but a goal is not written. Physical modifications may be necessary for participation in certain activities and environments, but a goal is not written. While these are areas of need, there are no specific learning outcomes intended for the student. Specific goal areas are identified through a discussion of the expectations for the student's age or grade, past progress and the student's current performance.</p> <hr/>



# Goal Development and Progress Monitoring

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## Goals Required in the IEP

Iowa *Rules* require the IEP to include a statement of measurable annual goals. [41.320(1)b]

The goals must meet the student's needs that result from the student's disability and enable the student to be involved and progress in the general curriculum (including the LEA's implementation of the Iowa Core Curriculum.)

Annual goals also provide a system for measuring the student's progress toward long-range expectations. To accomplish this end, goals should be:

- Meaningful
- Measurable
- Able to be monitored, and
- Useful in making decisions

---

## Why Set Goals?

First, goals are a legal requirement. Also, annual goals set the direction for instruction and assist in determining special courses, experiences, and skills a student will need to reach his or her goals.

There is a alignment among the annual goals and the:

- Strengths
- Interests
- Preferences of the student
- Concerns of the parents, and
- Needs identified in the PLAAFP

Annual goals are also descriptions of what a student can reasonably be expected to accomplish within a 12-month period with the provision of special education services and supports.

Annual goals may include intermediate steps to increase successful participation in the general curriculum, appropriate activities, and the general education environment.

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## How to Write a Goal

A well-written goal should contain the following:

- Conditions
- Behavior
- Criterion

## Developing Annual Goals

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### **What Are the Steps?**

There are three steps to developing annual goals for all students:

1. Link goal to general curriculum or other expectations of all students
2. Set measurement to determine progress
3. Describe Implementation of goal

By age 14, we must also:

- Link goal to postsecondary expectations
-

# Goal Development - Part One: Link the Goal to the General Curriculum

**Link the Goal to the General Curriculum** One of the major emphases of IDEA is that each student should have access to (i.e., be involved in and make progress in) the general education curriculum.

In order to ensure this the IEP team must use the Iowa Core Curriculum standards and benchmarks and the school district’s standards and benchmarks to guide the writing of the students’ goals.

---

**Identify Standards and Benchmarks** Using the curriculum comparisons identified during the PLAAFP discussion, the team should identify the Iowa standard and benchmark, if relevant to the goal, and the district standards and benchmark that the goal supports for the current grade level of the student or the student’s grade level one year after the IEP is implemented.

The team must link the goal to the standard and benchmarks that the student will meet at the end of the IEP year after completing the goal, not the standard and benchmark that the student has already met.

The entire standard and benchmark should be written on the goal page so that parents and others will understand the connection of this goal to the general curriculum.

Extended benchmarks may be used for students for whom grade level benchmarks are not appropriate.

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**General  
Education  
Curriculum for  
Preschool**

The general education program for preschool children is a research-based or evidence-based written framework that is:

- Comprehensive
- Addresses the needs of the whole child, and
- Provides a guide for decision making about
  - Content
  - Instruction
  - Methods, and
  - Child assessment

[IA Early Learning Standards](#) serve as a guide for learning and development of young children across various environments.

---

**Link the Goal to  
Current  
Academic  
Achievement  
and Functional  
Performance**

Current academic achievement and functional performance for each targeted need (goal) must be defined in specific, observable, and measurable terms. The student's specific performance in comparison to general education, grade-level peers and to the standards at the level identified in the discussion, as well as the effect of the disability on progress in the general curriculum should be considered.

Functional performance can be described as:

- The ability of the student to apply academic skills in a variety of ways and settings
  - Skills needed by students in order to work and live in the community such as:
    - Personal hygiene
    - Mobility around community
    - Communication
-

## Goal Development - Part Two: Set Measurement to Determine Progress

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### **Set Measurement to Determine Progress**

There are four steps that must be followed to establish a measurement system in order to determine progress towards goals.

---

### **Establish the Purpose of the Goal**

*First*, the IEP team establishes the purpose of the goal in relationship to the priority needs.

For school-aged students, this is done in relationship to:

- Grade-level
  - Core content standards, and
  - Grade-level performance expectations
- 

### **Set Baseline Measures**

*Second*, baseline measures must be set.

Baseline measures must be observable and measurable.

They must also include the student's specific level of performance from which the goal will begin.

A reliable baseline measure is generally the median of three scores of performance taken at three different times (usually 3 different days). The measurement used in the baseline must match that used in the goal and evaluation procedures.

---

### **Establish a Goal**

*Third*, from this baseline the IEP team must establish a challenging goal that may be achieved within a year and include a focus on the standards and benchmarks of the district.

The annual goal must include:

- The conditions (when and how the student will perform)
  - Behavior (what the student will do,) and
  - Criterion (acceptable level of performance)
- 

### **Establish Progress Monitoring Procedures**

*Fourth*, the team must establish progress monitoring procedures for each goal.

Evaluation procedures are the methods and frequency with which progress on a goal will be measured.

Decision rules guide ongoing planning and, when necessary, changes to instruction or interventions.

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## Goal Development - Part Three: Describe Implementation of the Goal

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**Implementation of the Goal** Once a goal has been agreed upon, the IEP team is required to document on the IEP the position of the person(s) responsible for implementation of the goal. The person responsible for implementing the goal is identified by position (e.g. special education teacher, paraprofessional, speech-language pathologist, etc.) not by the name of the person.

---

**Additional Requirement for Alternate Achievement Standards** For students using the alternate achievement standards and the alternate assessment, further detail about how the goal will be achieved is required. This is accomplished by adding major milestones and short term objectives for each goal.

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**Writing Major Milestones** Major milestones are written by stating the content to be learned or the skills to be performed in order to reach their annual goals. They are general statements that are measurable.

---

**Writing Short-term Objectives** Short-term objectives are measurable, intermediate steps between a student's present levels of academic achievement and functional performance, and the annual goals established for the student.

Short-term objectives are arranged in sequence and always include:

- The student's name
- The conditions under which the skill is to be performed
- The observable behavior, and
- The criteria for success.

More than one short term objective should accompany each annual goal. Major milestones and short term objectives can be written for any student, but are only required for those students participating in the alternate assessment.

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# Goal Development - Part Four: Link Goal to Postsecondary Expectations

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## Link Goal to Postsecondary Expectations

Any goal written for students who will be age 14 or older during the period of time when an IEP is in effect must address a postsecondary need identified in the PLAAFP and link to a postsecondary expectation.

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## What Are Postsecondary Expectations?

A goal may link to more than one of the postsecondary expectations for living, learning and working. Every effort should be taken to make sure that the goal directly links to the postsecondary expectation, taking into account the student’s needs.

Postsecondary expectations *are not*:

- Passing classes
  - Earning credits
  - Or other general outcomes during a student’s K-12 education
-

## Special Education Services, Activities, and Supports

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### Developing a Description of Each Service

Based upon the needs identified in the PLAAFP and the goals that have been established for the student, the IEP team develops a description of each service, activity, and support that will be provided to the student or on behalf of the student.

Identifying the services, activities and supports that will be provided to meet the student's needs ensures that all of the student's educational needs are addressed on the IEP.

A clear, comprehensive description helps to ensure that all members of the IEP team know what services, including specially designed instruction, supports, and activities will be provided and when they will be provided

---

### Selecting Services, Activities, and Supports

The services, activities and supports are selected to allow the student to: [41.321(1)"e"]

- Progress toward his or her annual goals
  - Be involved and progress in the general curriculum (including the LEA's implementation of the Iowa Core Curriculum)
  - By at least age 14 (therefore included in IEPs written at age 13 and older) pursue the course of study and postsecondary expectations outlined in the PLAAFP
  - Participate in extracurricular and other nonacademic activities with other students with disabilities and nondisabled students, and
  - Be educated with other students with disabilities and nondisabled students
- 

### Who Receives These Services?

Special education services, related services, and supplementary aids and services may be provided to:

- The student
- The parents
  - If necessary, as a related service, parent training and counseling might involve assisting the parents in understanding the special needs of their child and/or helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP.
- School personnel so they can best assist the student to benefit from his or her education
  - The training identified on a student's IEP should be targeted directly to meet a unique and specific need of the child rather than being simply an in-service training program that is generally available within the district or AEA.

**Note:** See Transition section for further information on services, activities, and supports for ages 13-21.

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**What are  
Services?**

**Services** are actions designed to meet the unique needs of a student or are required to assist the student to take advantage of, or respond to educational programs and opportunities.

Iowa's *Rules* require IEP teams to consider a variety of potential services, such as:

- Specially designed instruction
  - Related services
  - Health services
  - Assistive technology, and
  - Transition services [41.34]
- 

**What are  
Activities?**

**Activities** are events or tasks that the student needs to complete in order to take advantage of, or respond to educational programs and opportunities.

The identification of activities is particularly relevant to the provision of transition services.

For example, applying for colleges or vocational rehabilitation services will assist students to pursue their goals, but not all students will need specially designed instruction to complete this effort.

Activities are included on the IEP form as an option for events or things that are not clearly a service or a support, but will be provided to the student and therefore need to be described on the IEP.

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**What are  
Supports?**

**Supports** are things or persons provided for the student, or professional development provided for school personnel, which allow the student to have access to the general curriculum.

These would include:

- Assistive technology devices
  - Consultation among teachers
  - Paraprofessionals provided for the students
  - In-service opportunities, or
  - Professional literature provided for school personnel
-

## Describing Special Education Services - Four Parts

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### **What Are the Four Steps?**

The four steps describing special education services are:

1. Identify and describe individualized service needs
  2. Calculate total time removed from general education
  3. Address extended school year services, specialized transportation needs, and physical education
  4. Identify participation in districtwide assessments
-

## Describing Services Part One: Identify and Describe Special Education Services

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### Identify and Describe Individualized Service Needs

The IEP must describe all the services, activities and supports necessary to meet the student's educational needs and must indicate when each will begin.

An IEP that does not clearly specify the nature and type of services, activities and supports is inadequate and fails to meet the requirements of the *Rules*.

The description must contain specific details about how these services, activities and supports are to be implemented. This description must also contain details of the anticipated frequency, setting and duration of each service, activity and support. [41.320(1)]

---

### Team Review of Individualized Service Needs

The team must review each service, activity and support listed at the top of the Special Education Services page and indicates "Y" for each one that is needed by the student and will be provided in this IEP.

For each "Y" that is indicated, the IEP team must specifically describe the service, activity or support to be provided. One description may cover several "Y"s. The description must be specific enough that someone who did not attend the IEP meeting could implement the service, activity or support as intended by the IEP team.

---

### Record Provider of Service

Once the description is written, the IEP team must identify and record the providers of service.

The provider of service is the position or agency that has primary responsibility for implementation of service. Identify both the name and the position of service providers. However, names will not be printed by the Web IEP.

---

### Identify When and How Often Services Will Be Provided

The IEP team also needs to identify when and how often the service will be provided.

The team may do so by describing both the time and frequency of the service, or by clearly describing the circumstances under which the service will be provided.

If the service, activity or support is one that will be provided on an ongoing routine basis, time and frequency would be the most appropriate method. For example, "Beth will receive speech (service) for 20 minutes (time) three times a week (frequency)".

Describing the conditions or circumstances under which a service will be provided is more appropriate for service, activities and supports that will occur on an as needed or episodic basis. For example, Steve will receive assistance in applying for VR services (activity) after completing his job-shadowing experience (condition).

Identifying the setting(s) in which the service, activity or support will be provided completes the description of special education services. Record the specific amount of time that the service, activity or support will occur in each setting.

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# Describing Services - Part Two: Calculate Total Time Removed from General Education

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**Calculate Total Time Removed from General Education**

The least restrictive environment is defined in terms of “who you are with,” not “where you are.”

Time *removed* from general education represents time that the student is in any setting that is available **only** to students with disabilities at the time of the service, activity or support. Time spent in a sheltered workshop would be considered special education (removal) time.

The remainder of the school day is the percentage of time the individual spends in settings that are available to peers with and without disabilities.

The removal percentage is not an indicator of the amount of special education services. Special education services may be provided in general education settings through a variety of methods. The factor that determines the nature of the setting is the people in the environment.

The Web IEP will automatically calculate the percentage of time removed from the general education environment.

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## Describing Services - Part Three: Extended School Year Services, Specialized Transportation, and Physical Education

### Extended School Year Services

***Note: The Extended School Year Services (ESYS) form must be completed for students determined eligible for ESYS. See the ESYS form and accompanying directions in the Documentation Guide.***

**ESYS Defined** Extended School Year Services (ESYS) are special education and related services that meet the standards of the state and are provided to a child with a disability. These services go beyond the normal school year in accordance with the IEP and at no cost to the parents of the child. [41.106(2)]

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**ESYS Conditions** Any services provided beyond the regular school year by the LEA or AEA constitute an ESYS program when the following conditions are met:

- The IEP team has made an individualized determination that there is a need for such services to insure an appropriate education for a student with a disability
- The need and the services are documented in the IEP
- The services are accessed or provided by a public education agency
- The student's progress is monitored by appropriate special education personnel

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**Pre-Meeting Notice** A consideration of ESYS could be a part of any IEP meeting and therefore does not need to be listed as a part of the purpose statement when notifying parents about an upcoming IEP meeting.

However, if a separate meeting were to be held to consider ESYS only or a discussion has already occurred that indicates ESYS will be a specified area of decision making, then ESYS considerations would need to be included as part of the purpose statement.

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**ESYS Eligibility** ESYS must be made available if it is necessary in order for a child to receive a free appropriate public education (FAPE.) [41.106(1)]

No single criteria can be used as a sole determining factor in determining eligibility for ESYS.

Decisions require a look into data from multiple sources. Another issue to be considered is whether benefits accrued by the child during the regular school year will be jeopardized if he or she is not provided ESYS.

Eligibility may not be limited to particular categories of disability or unilaterally limited to particular types, amounts or duration of service. This would include students receiving only support services (e.g., occupational therapy, etc.).

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**Determining  
Eligibility for  
ESYS**

Because parents have the right to appeal the ESYS decision and exercise due process procedures, parents need to be given ample time to appeal the decision.

Therefore it is suggested that decisions regarding eligibility for ESYS should be made at least 60 calendar days before the end of the school year, and before any other school breaks for which ESYS would be a consideration. This allows parents time to consider the IEP and for parents and schools or AEAs to resolve any differences that may arise.

Because efforts are made to meet each eligible individual's needs during the school year, ESYS are the exception, not the rule. Typically, most students will not be entitled to ESYS following IEP team consideration.

If the IEP meeting occurs after the student's annual review, an amendment to the current IEP may be completed to document ESYS rather than rewriting the entire IEP.

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**Least Restrictive  
Environment  
(LRE)**

If the participants on the IEP team determine that the student/young child requires an ESYS program in order to receive FAPE, that program must be provided in the LRE that is appropriate.

AEAs and LEAs may provide ESYS to an individual disabled student in a non-educational setting if the student's IEP team determines that the student could receive necessary ESYS in that setting.

Early Access service providers and the monitoring data they collect will help inform ESYS decisions for young children following their transition from Early Access services (Part C) to preschool services (Part B).

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## Four Main Considerations in Extended School Year Services (ESYS)

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### **One: Goal Areas of Concern**

The IEP team must determine if there are goal areas of concern that need to be acquired or maintained without interruption for the child to meaningfully benefit from FAPE. To do that the team should address these questions:

- Will acquisition or maintenance of the skill significantly enhance the student's ability to function?
- Does the skill represent a barrier to continuous progress towards self-sufficiency?

The identification of a goal area of concern does not establish or preclude the need for ESYS. If there is a goal area of concern, the IEP team should consider the remaining three factors.

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### **Two: Regression**

The IEP team must answer the question: Has there been (or is there potential for) significant regression during periods of interruption that need to be recouped?

Regression: The inability of a student to maintain an acquired skill in an identified goal area of concern, when special education instruction or support services are interrupted so that the student requires an unreasonable period of re-teaching to regain previous competence.

In applying this standard, IEP teams should consider the following:

- ESYS may not be limited to children who have actually experienced serious regression, but also include those with a serious potential for regression
  - The information considered may not be limited to empirical data, but must encompass all relevant data
  - Consideration must be given to whether the child's disability is such that he or she cannot reasonably suffer a significant regression, and
  - For any IEP team using a nine-week recoupment period it must be interpreted flexibly in light of the needs of the individual child
- 

### **Data that Should be Examined to Discover Potential Regression**

Sources of convergent data that should be examined for potential regression may include (but are not limited to:)

- Progress monitoring data on IEP goals
  - Anecdotal data
  - Data provided by parents
  - Data from another LEA
  - Reports from outside agencies and professionals
  - Grades or report cards
  - Interviews
  - Past ESYS data
- 

**Three: Rare and** The IEP Team must answer the following questions:



**Unusual  
Circumstances**

- Are there rare and unusual circumstances that are a factor?
- Is the student at a critical stage in skill development and is continuous treatment essential?
- Are there rare and unusual circumstances that necessitate continuous instruction or service?

Rare and unusual circumstances refer to situations where failure to provide a service beyond the normal school year will result in permanently losing, or severely limiting, the student's capacity and potential to acquire skills to benefit from FAPE.

A rare and unusual circumstance exists when it is determined by the team that:

- A skill needs to be mastered immediately
  - If the student does not master the skill immediately, the degree of mastery is likely to be permanently reduced
- The child is at a critical stage of development where there is a window of opportunity that will be lost if services are not provided
- Changes in a student's medical, physical, or sensory status make it possible to predict an accelerated rate of learning during the ESYS program
- Continuous or year-round programming is an integral part of the methodology

Sources of convergent data that should be examined for rare and unusual circumstances may include (but are not limited to:)

- Medical records
  - Research or development standards
  - Interviews with parents, teachers, and service providers
- 

**Four: Other  
Considerations**

The IEP Team must answer the question: Are there other factors to be considered in determining the student's need for ESYS?

Sources of convergent data that should be examined for other considerations may include (but are not limited to:)

- Degree of child's impairment
  - Ability of the parents to provide educational experiences at home
  - Child's behavioral or physical condition
  - Student's rate of progress
  - Areas of curriculum requiring continuous instruction
  - Ability of the child to interact with nondisabled peers
  - Requested service is an integral part of a program for children with the same condition
  - Child's vocational needs
  - Degree of regression suffered by the child
  - Child's recovery time from regression
  - Availability of alternate resources
-

**Documentation** If a decision to provide ESY is made, the agreed upon services should be documented on the IEP.

Each IEP is marked with “Yes” or “No” on the ESY section of the Services page:

- If “Yes” then services must be described on the Extended School Year (ESY) Services form
- If “No” describe the option to say no at the time, but meet again at a time appropriate to make the decision

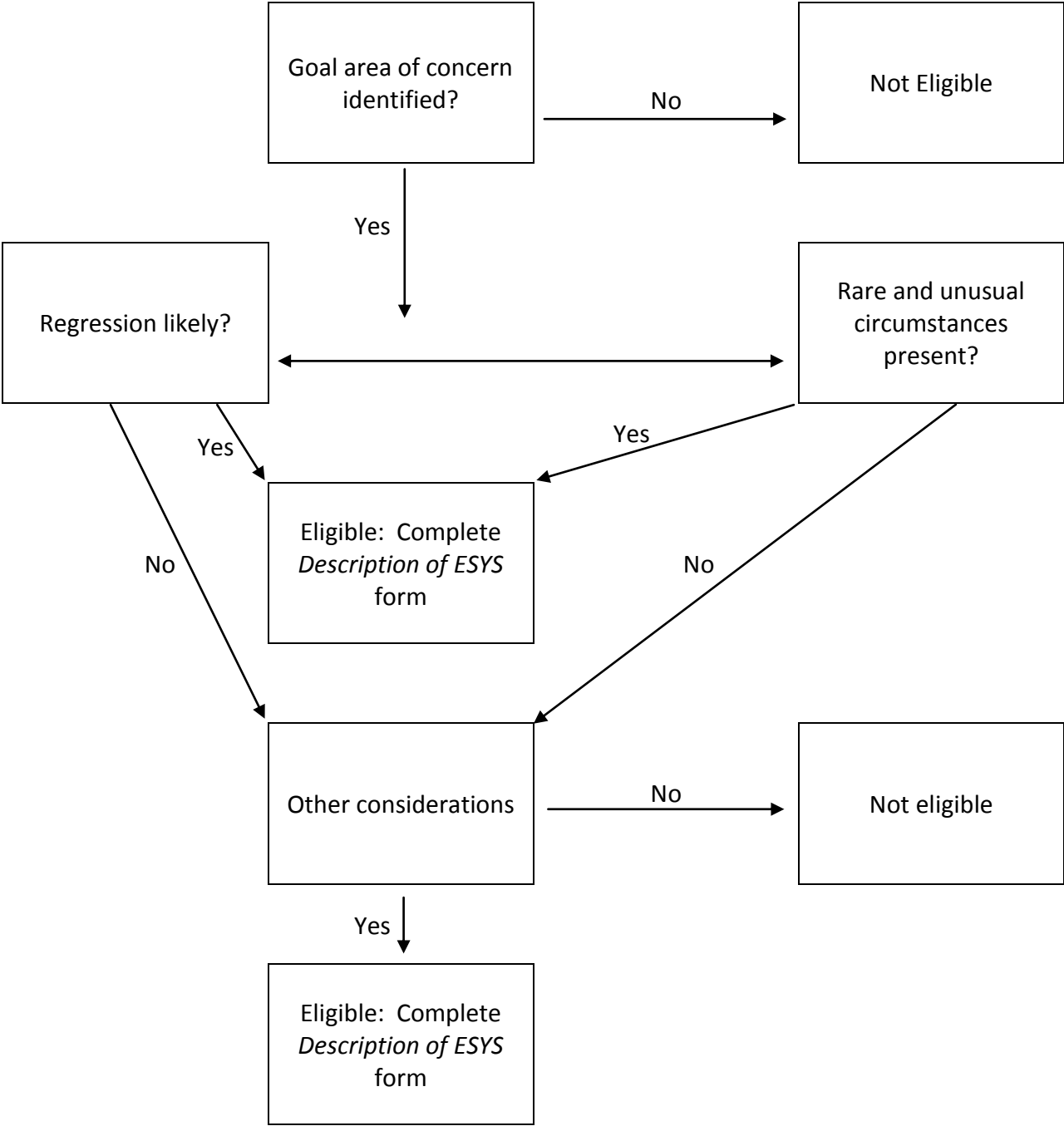
If ESY will be provided the Extended School Year (ESY) Services form must clearly indicate which standard was used to determine eligibility based on:

- Need for continued skill acquisition and maintenance
- Regression/recoupment
- Rare and unusual circumstances
- Other considerations

Prior Written Notice must be given at the following times:

- When a student has been determined to need ESY by the IEP team
  - When a parent requests ESY, but the other IEP team members decide ESY are not warranted
-

# Extended School Year Considerations



# Planning Extended School Year Services (ESYS)

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**Determining if  
ESYS Will Meet  
the Individual’s  
Needs**

When the need for ESYS has been identified for an eligible individual, the nature and extent of those services must be determined.

The ESYS must meet the individually identified need and the standard of meaningful benefit.

An existing program may be utilized to provide ESYS during a school break, but if an individual’s needs cannot be fully met through that program different or additional services must be provided. For example, ESYS could not be limited to a three week summer program when the needs of the individual call for services throughout the summer break.

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**ESYS Must  
Match The  
Purpose**

ESYS need to match their purpose, e.g. to:

- Prevent regression
- Continue a program that is continuous by design
- Address a rare or unusual circumstance that affects the individual’s progress in one or more areas, etc.

ESYS does not necessarily have to be a program that duplicates the program provided during the regular school year. Community resources may be utilized. However, monitoring and supervision of ESYS, even if directly delivered by other community resources, are still the responsibility of qualified special education personnel.

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## Specialized Transportation

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### Specialized Transportation

If required, specialized transportation is a related service that must be provided to assist the student with a disability in order to receive benefit from his or her special education services. [41.412, 41.34(3)]

It is provided when the student's disability prevents the student from using the same transportation provided to students without disabilities (e.g., riding the school bus). [41.412] [41.34(3)"p"]

Transportation may also be provided when the disability prevents the student from getting to school in the same manner as students without disabilities (e.g., walking to school).

---

### Defining Specialized Transportation

Specialized transportation includes the following:

- Travel to and from school and between schools
  - Travel in and around school buildings
  - Specialized equipment such as special or adapted buses, lifts, and ramps if required
- 

### Specialized Transportation and the IEP

For students in need of specialized transportation services, the need and the specialized transportation arrangements must be described on the IEP (i.e., transportation item checked on Page **G** *and* transportation services described on Page F).

During IEP development include the district's transportation director in the conversation or another person knowledgeable regarding student transportation. An individual's school day is not to be shortened by special transportation arrangements, but only if the individual's IEP requires a shortened day to provide a FAPE. [41.11(2)].

Also, behavior, physical or special health needs of the student may need to be discussed. Following the IEP meeting, the needs of the individual being transported and the expectations of personnel involved in transportation must be clearly communicated. [41.324(4)]

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### Specialized Transportation Arrangements

If the IEP team determines the need for specialized transportation, the resident LEA (or AEA if transportation to a support service) shall make one or more of the following arrangements: [41.412(1)]

- Transport student to and from location of service, students home or to a child care placement if student is below age six
- Provide special assistance for student to get to and from the vehicle and/or on and off the vehicle

- Reimburse parents for actual costs of transportation if, by mutual agreement, parents want to transport the student themselves. Agencies are not required to reimburse parents who elect to provide transportation for their child instead of allowing the agency to provide transportation

---

**Specialized  
Transportation  
Drivers Subject  
to Rules**

A vehicle driver providing specialized transportation is a paraprofessional delivering a related service and subject to *Iowa Rules* requirements related to preparation:

“Special education personnel may be employed to assist in the provision of special education and related services to children with disabilities and shall:

- a. Complete appropriate pre-service and ongoing staff development specific to the functions to be performed. The agency shall make provisions for or require such completion prior to the beginning of service wherever practicable and within a reasonable time of the beginning of service where the pre-entry completion is not practicable.” (281—41.403(1)a)

If, in addition to being informed of transportation responsibilities, a driver requires training indicate “Y” for “Supports for school personnel” on Page F and describe the training to be provided.

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**Topics to  
Address to  
Prepare  
Specialized  
Transportation  
Drivers**

Topics to be addressed in preparing drivers include:

- Confidentiality
  - Behavior
  - Least restrictive environment, and
  - The specific needs of individual students
- 

**Additional  
Guidance for  
Specialized  
Transportation  
Issues**

Refer to *Iowa Rules* for guidance on the following:

- Responsibility for transportation for AEA services, students dually enrolled in public and non-public schools and for diagnostic services [41.412(2)]
  - Purchase of transportation equipment [41.412(3)]
  - Lease of transportation equipment [41.412(4)]
  - Transportation equipment safety standards [41.412(5)]
  - Transportation for students in inter-district and intra-district school choice programs such as open enrollment [41.412(6)]
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## Physical Education

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### **Description of Physical Education**

Physical education is the term used to describe: [41.39(3)"b"]

- The development of physical and motor fitness
  - Fundamental motor skills and patterns
  - Skills in aquatics
  - Skills in dance
  - Skills in individual and group games, and
  - Skills in sports, including intramural and lifetime sports
  - Special physical education
  - Adapted physical education
  - Movement education
  - Motor development
- 

### **Determining Student Placement in Physical Education**

Each student with a disability must be provided the opportunity to participate in the regular physical education program available to students without disabilities. The exception to this would be if the student is enrolled full-time in a separate facility, or needs specially designed physical education. [41.108(2)]

To determine if the student needs specially designed physical education, the IEP team must consider the information in the PLAAFP, goals and other services, activities and supports.

If identified as needed, specially designed physical education must include a goal and documentation on the services page of the IEP. Modifications to regular physical education are not considered specially designed instruction but must be described on the IEP.

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### **Availability of Physical Education**

Physical education services, specially designed if necessary, must be made available to all students with disabilities unless the school enrolls students without disabilities and does not provide physical education to students without disabilities in the same grades. [41.108]

A child enrolled in a separate facility must receive appropriate physical education services. [41.108(4)]

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# Describing Services - Part Four: Identify Participation in Districtwide Assessments

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**IDEA  
Requirements**

IDEA requires the involvement of all students with IEPs in the general curriculum as well as in districtwide assessments. [41.320(1)(g)]

Their performance is included in the data that districts use to make decisions.

This requirement reflects the belief that students with disabilities are more likely to benefit from high expectations when their performance is included in districtwide decision-making processes.

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**Defining  
Districtwide  
Assessments**

Chapter 12 of the Iowa Administrative Code (280.12) defines districtwide assessments as “large-scale achievement or performance measures.”

Districtwide assessments are defined as any assessments that are given to all students in a particular grade and for which results are reported to the public.

The most common districtwide assessments are the Iowa Test of Basic Skills (ITBS) and Iowa Tests of Educational Development (ITED).

School districts may have additional districtwide assessments. However, end of unit tests and other classroom assessments are not considered districtwide assessments.

In other words, a districtwide assessment is any assessment that is given to all students in a particular grade and for which the results are reported to the public.

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**Districtwide  
Assessments  
Not Required**

Districtwide assessments for special education students are not required if they are not given to all students at the student's grade level. In addition, a student who is incarcerated in an adult correctional facility is not required to participate in districtwide assessments. [41.324(4)a(1)]

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# Guidelines for Decision Making Regarding Participation in Districtwide Assessments

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## Why Administer Districtwide Assessments?

School districts typically administer districtwide assessments to determine areas for school improvement.

They also administer districtwide assessments to:

- Provide information and feedback to teachers, administrators, and parents about student progress, and
  - To provide interested constituents with a picture of academic trends within the district
- 

## How Will Students Participate in Districtwide Assessments?

IEP teams must be clear that their decision is not **whether** the student should participate in districtwide assessments, but rather **how** the student will participate.

The IEP team must decide whether:

- The student can participate without accommodations
- The student can participate with accommodations, or
- The student will need to participate in the Iowa Alternate Assessment

In order to determine this, the team must consider the characteristics of the student, the nature and purpose of the assessment, and the participation option that is most appropriate. [41.320(1)“g”]

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## IDEA Requirements Concerning Participation in Districtwide Assessments

IDEA requires the IEP team to make a decision about a student’s participation in each districtwide assessment that will be administered.

If accommodations are needed for student participation, the IEP team must describe those accommodations.

If a particular districtwide assessment is not appropriate, the IEP team must explain why the student cannot participate in the regular assessment, and why the alternate assessment is appropriate. [41.320(1)g]

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## Using the Alternate Assessment

Any student not participating in the district assessments is assessed using the State Alternate Assessment.

The Department of Education website should be consulted for current procedures and information regarding Iowa’s Alternate Assessment.

It is essential for any special education teacher giving the Iowa Alternate Assessment to receive the appropriate training.

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**Determining  
Reasonable  
Accommodations**

When considering reasonable accommodations, several factors need to be addressed.

These factors are:

- The use of accommodations in a similar fashion in the classroom and their demonstrated benefit
- The relationship of accommodation to an identified special education need, and
- The consideration of whether the accommodation will give a better picture of the knowledge of the individual

Accommodations are to be made as long as they do not negate the intent of the assessment.

For example, if reading is required in order for a student to understand math problems, then a reader is a reasonable and needed accommodation.

If on the other hand, the test were for reading comprehension, then having a reader would negate the intent of the reading comprehension assessment and would therefore be inappropriate.

For more information regarding accommodations, please refer to the *State Accommodations Guidelines* on the Iowa Department of Education website at:

<http://www.iowa.gov/educate/content/view/596/926/>

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## Additional Considerations

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### **What is Least Restrictive Environment (LRE)?**

The least restrictive environment (LRE) is the educational environment that enables students with disabilities to receive an appropriate education and provides the students with maximum opportunities for interaction with peers without disabilities.

Removal from the general education environment may occur only if the nature or severity of the disability is such that education in regular classes (with the use of supplementary aids and services) cannot be achieved satisfactorily. [41.114(2)b]

Supplementary aids and services are aids, services, and supports that enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate. [41.42]

These aids, services, and supports are to be provided in:

- General education environments
- Education-related settings (field trips, work experience sites)
- Extracurricular settings
  - Athletics, clubs, school plays, etc.
- Nonacademic settings
  - School dances, school sponsored activities

Examples of supplementary aids and services include:

- Educational interpreters
- One-on-one paraprofessionals
- Health services (e.g., catheterization)

LRE is grounded in the idea that while the general education environment is the most ideal setting for students, some students may at times need different settings in order to receive an appropriate education.

It is also expected that an eligible individual may need special assistance in the general education setting.

The decisions regarding the setting(s) where a student will be educated is based on:

- The specific needs of the student
  - Whether the student may need individualized assistance in the general education setting, and
  - A review of the continuum of services
-

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**What is the Purpose of Least Restrictive Environment (LRE)?**

LRE, as a concept, helps to foster a positive approach to educating students with special education needs.

Educating students with disabilities in the general education setting, with peers without disabilities, has been shown to improve learning of students with disabilities.

Consideration of LRE requires that all students with disabilities to the maximum extent appropriate, including students in public or private institutions or other care facilities, are educated with children who are nondisabled. [41.114(2)]

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**Continuum of Placements**

LEA's must ensure that a continuum of alternative services and placements is available to meet the special education and related services needs of eligible individuals. [41.115]

The continuum of services and placements includes the provision of special education services in:

- General education classes
  - Special classes
  - Special or separate schools
  - Service provider location
  - Home
  - Hospitals
  - Residential facilities
- 

**Placements in the LRE**

Placement decisions must be made by a group of persons knowledgeable about the child, and include the parents. In determining placement, consideration is given to evaluation data and placement options. [41.116(1)a]

The placement is to be determined annually and is based on the needs outlined in the child's IEP.

Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he or she would attend if nondisabled. The school the child would attend if nondisabled is considered to be the school building in the resident district where the child would be assigned at the point of initial enrollment given a neutral application of the district's attendance center policy. "Neutral", in this context means, without consideration of disability status or court-ordered placement.

The placement is to be as close to the child's home as possible.

Placement decisions must consider the quality of service the child needs, as well as any potentially harmful effect the placement could have on the child.

The child may not be removed from age appropriate general education classrooms solely because of "needed modifications in the general education curriculum."

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## Procedures for Determining Least Restrictive Environment (LRE)

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### **IEP Team Considerations Concerning Least Restrictive Environment (LRE)**

When making placement decisions the IEP team must take into account:  
[41.116(4)a]

- The accommodations, modifications and adaptations an individual may require to be successful in a general education environment
- Potential barriers to providing these accommodations, modifications and adaptations within the general education environment
- The supports needed to assist the teacher and other personnel in providing accommodations, modifications and adaptations
- The impact on the individual provided special education services and activities in the general education environment, and
- The impact on other students when providing special education services and activities in the general education environment

The LRE for a student is documented by:

- Describing participation in special education, general education and community settings, and
  - Identifying the students' attendance center
- 

### **Placement Considerations for Preschool Children**

Placement considerations an IEP team must address for preschool children include:

- Special education and support/related services the child needs
  - Supplementary aides and supports needed by the child
  - Early childhood program (general education environments) in which:
    - Appropriate activities occur for children of similar age without disabilities
    - General education curriculum is comprehensive, and at least 50% of the children are of similar age without disabilities
  - Programs in which quality preschool program standards are implemented
  - Service and environments that are appropriate and provide educational benefit for the child
-

## Participation in General Education

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### **Defining the General Education Environment**

The general education environment includes: [41.51(7)]

- Academic and non-academic settings
- All of the opportunities and experiences students made available to all students

Examples of the general education environment for school age students include:

- Classroom settings in elementary and secondary schools
- School-sponsored field trips
- Assemblies, performances, and activities made available by an agency to all students

### **Defining the General Education Environment for Pre-School Children**

The general education environment for preschool children who require special education includes settings where activities and instruction naturally occur for children of a similar age and more than 50% of children are not disabled. [41.51(8)]

Examples of the general education environment for early childhood ages include:

- Child development home care settings
- Early childhood center-based programs by the LEA or other agency, and
- Community-based early childhood centers

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### **Preschool Placement Consideration**

High quality research-based early learning experiences are essential to building a foundation for achieving positive outcomes for children.

Early Childhood Special Education programs and early childhood programs serving eligible individuals must implement one of the following preschool program standards:

- National Association for the Education of Young Children (NAEYC) Accreditation
  - Head Start Program Performance Standards
  - Iowa Quality Preschool Program Standards (QPPS)
-

# Participation in Non-Academic Activities and Extracurricular Activities

**Students with Disabilities Participating with Nondisabled Children in Extracurricular Activities**

The IEP team must consider all steps necessary, including the provision of supplementary aids and services, to ensure that the student with a disability will participate with nondisabled children in nonacademic and extracurricular services and activities to the maximum extent appropriate to the needs of that child. [41.117]

The supplementary aids and services determined appropriate and necessary for this to occur should be documented on Page G of the IEP.

**Description of Nonacademic and Extracurricular Services and Activities**

Nonacademic and extracurricular services and activities include: [41.117]

- Meals
- Recess
- Counseling services
- Athletics
- Transportation
- Health services
- Recreational activities
- Special interest groups
- Clubs sponsored by the school

Other activities also include referrals to agencies that provide assistance to individuals with disabilities and employment of students, including both employment by the school and assistance in making outside employment available. [41.107(2)]

## Least Restrictive Environment (LRE) Special School Placement

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### Special School Placement

Some students must have their special education needs met in special schools which only provide programs for students with disabilities. [41.116(4)b; 41.176]

Examples of this type of special school in Iowa include:

- Iowa School for the Deaf in Council Bluffs and
- Iowa Braille and Sight Saving School in Vinton

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### Special School Questions

When some or all of a student's special education is to be provided in a special school, the IEP team must complete and attach the form Justification for Special School Placement. [41.116(4)b]

Questions are:

- What are the reasons the eligible individual cannot be provided an education program in an integrated school setting?
  - What supplementary aids and supports are needed to support the eligible individual in the special education program?
  - Why is it not possible for these aids and supports to be provided in an integrated setting?
  - What is the continuum of placements and services available for the eligible individual?
-



## Communicate Responsibilities and Progress

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### **Progress Reporting Explained**

Progress reporting is the process of keeping parents informed of their student's progress on IEP goals. [41.320(1)"d"2]

It includes identifying the frequency and method of notification and establishes a formal mechanism for communicating the student's success.

IEP teams may decide any schedule of reporting that meets the team's needs, as long as parents are regularly informed of their student's progress on IEP goals at least as often as parents are informed of the progress of students without disabilities.

The report itself, in addition to describing progress on the student's annual goals, must identify the extent to which that progress is sufficient to enable the student to achieve their goals by the end of the year.

Progress monitoring and reporting helps the IEP team decide whether adjustments in services, teaching strategies, environments, etc. are needed to help a student achieve his or her goals. Two methods of reporting are commonly used. One is to use the box located at the bottom of the IEP goal page and send copies to parents. The other common method is to write an IEP report with report cards and progress reports.

If another method is used, it should be described in the IEP, using the line provided.

---

### **Performance Reports Released to the Public**

School districts must report to the public on the performance of children with disabilities with the same detail and frequency as they report the performance of their entire student population. [34 C.F.R. § 300.157]

The exception to this rule is a situation where reporting information on individuals with disabilities performance might result in divulging personally identifiable information about students.

As a rule, if a district has ten or fewer individuals with disabilities, the district should examine and use these data in their school improvement planning, but not report these data to the public.

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### **Preschool Progress Reports**

For preschool children it is necessary to complete the Early Childhood Outcomes Summary form at initial IEP meetings, IEP reviews, and reevaluation meetings.

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## Progress Reports for Early Childhood Special Education

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### Explanation of Early Childhood Outcomes (ECO)

Early Childhood Outcomes (ECO) is a federal reporting requirement established by the Office of Special Education Programs (January, 2006.) The purpose of the information from the ECO is us to document the effectiveness of Early Childhood Special Education (ECSE) services in enhancing preschool children's development.

IEP teams, including families, must complete the ECO Summary annually to report on a child's current level of functionality and progress made while receiving Early Childhood Special Education services. The ECO areas represent functional skills behaviors that young children need to be successful in everyday activities and routines, which include the following three areas:

- Positive social-emotional skills (including social relationships)
- Acquisition and use of knowledge and skills (including early language/communication and early literacy)
- Use of appropriate behaviors to meet their needs (including self-help and motor skills)

Refer to Early Childhood Outcomes Summary Form.

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### When Must an ECO Summary be Completed

The ECO Summary must be completed at initial IEP meetings, IEP reviews and reevaluation meetings.

The ECO Summary must be completed when children:

- Receive ECSE instructional and/or support only services (e.g. speech)
- Receive special education services in both the ECSE and kindergarten settings
- Transition from ECSE to kindergarten services
- Move out of state or exit ECSE services due to inability to contact or locate the family

The final ECO Summary is completed at the IEP meeting in which a child leaves or exits ECSE services (instructional or support.) The final ECO Summary must be completed within ninety calendar days prior to the time a child no longer receives ECSE services.

**Example:** If a child in ECSE is transitioning to kindergarten for the following school year, the ECO Summary is completed no earlier than ninety calendar days prior to the last day of the current school year. For example, if the school year ends on May 30<sup>th</sup>, the ECO Summary must be completed no earlier than and after March 2<sup>nd</sup>.

---

**ECO Summary: Comparison to Peers or Standards** The IEP teams use a seven-point rating scale to decide the extent a child functions in ways considered age-appropriate with regard to the ECO areas.

An outcome rating is determined based on a child's:

- Current level of functioning demonstrated across settings and situations
  - Functioning using assistive technology or special accommodations, if applicable
  - Performance of skills and behaviors compared to age appropriate expectation
- 

**ECO Summary Progress** At IEP reviews and reevaluations, IEP teams determine if the child has gained any new skills or behaviors while receiving ECO services. At any initial IEP meeting, IEP teams will check "not applicable because this is the child's initial IEP meeting" on the ECO summary.

A child's progress is determined based on any of the following:

- Acquisition of a new skill or behavior
  - Demonstration of increases in skill level
  - Independence in mastery of a skill or behavior
  - Progress toward achieving annual goals
  - Improvement in the quality of skills or behavior performance
- 

**ECO Summary: Supporting Evidence for Outcome Rating and Progress** IEP teams use a process referred to as RIOT, to document supporting evidence to determine a child's level of functioning and progress.

RIOT stands for:

R – Record reviews of existing medical reports and evaluations  
I – Interviews with parents, caregivers, teachers and service providers  
O – Observations in various settings and situations  
T – Tests and assessments, including research-based criterion reference, curriculum-based or play-based assessments

The purpose of RIOT is to provide information needed for decision-making in an accurate and efficient way. Sufficiency of valid and reliable information is the key principle, not the number of methods used.

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## Guidelines for Making Changes to an Eligible Individual's IEP

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### **Review Need for Services and Make Necessary Changes**

An “eligible individual” is eligible for the consideration of all his or her needs that may be special education.

IEP teams often need to address new, different or additional areas of concern. Teams also need to consider decreasing or discontinuing special education services, activities or supports, which may ultimately lead to an exit from all special education services for the individual.

Changes to an eligible individual's educational program that increase or decrease services, activities, or supports may be made through the review or amendment process. This can be done provided the team has collected and reviewed data sufficient to support any proposed changes.

In determining what changes may be necessary, the IEP team must consider the individual's access to general education environments, and involvement and progress in the general education curriculum.

IEP teams need to base their decisions on sound data. Data may come from a variety of sources.

These decisions may require a reevaluation involving review of existing data or the need for additional assessments.

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### **Adding Services and Supports in a “New” Area**

A “new” area is one that is not closely related to existing areas that are addressed through special education services and supports.

For example, if math or behavior services and supports are added to an IEP that previously addressed only reading, math or behavior is a “new” area; if services and supports promoting multiplication and division success is added to an IEP that previously addressed addition and subtraction, multiplication and division reflect a normal progression within math and are not “new.”

The general education intervention process is not required to add areas of service to the IEP of an eligible individual. However, this process should be considered whenever the needs of an eligible individual might reasonably be addressed without special education services or supports.

The data supporting the addition of services and supports in a new area **must** be documented in the IEP.

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**Data Standards  
for Adding  
Services and  
Supports in a  
New Area**

IEP teams need to base their decision on sound data. Data may come from a variety of sources. When considering additional needs, the data generated through the general education classroom that reflects an individual's progress in the context of assistance provided to the student is the first source to consider. Data must clearly support the conclusion that identified needs require special education services and supports, rather than other forms of assistance.

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**Adding Services  
and Supports in  
a New Area  
Through Annual  
Review or  
Amendment**

In the Present Levels of Academic Achievement (PLAAFP) section entitled "Other information essential for the development of this IEP:"

What to do	Example
State the IEP team's conclusion regarding the need for supports beyond those typically provided to all general education students and summarize the data that supports this conclusion, including progress and discrepancy information.	The IEP team believes that Karina requires greater assistance in the area of math than is provided to most students. She has struggled with concepts and applications related to algebra variables, data analysis and probability. Her math scores on the ITBS are well below the proficient level and her test, quiz and assignment scores are consistently with the lowest 10 to 15% of the class.
State the IEP team's conclusion regarding the individual's need for special education services and supports in the new area, and summarize the information that supports this conclusion, including the impact of previous efforts.	The IEP team believes that special education services and supports, including frequent progress monitoring and adjustments to instruction, are needed. Karina currently receives her mat instruction in a co-taught classroom and is frequently included in small groups of students who are experiencing difficulties and receive focused instructing by a special educator. In addition, her general education teacher affords her additional individual time (15-20 minutes, 3-4 times per week) and her parents provide nightly homework support. Weekly algebra probes show little or no gains over the past eight weeks.

In the Current Academic Achievement and Functional Performance (CAAFP) section of Page D (Goal) provide detailed information to elaborate the summary information in the PLAAFP.

Complete all other appropriate information on the Goal and Service pages (D and F.)

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**Adding Services and Supports in a New Area Through Reevaluation**

Address reevaluation questions one, two, and three in relation to the existing areas addressed through special education services and supports. Those questions are:

1. What progress has the student made compared to peers or the expected standard?
2. What discrepancy, if any, still exists between the student's performance and that of peers or the expected standard?
3. What evidence is there that the student continues to need special education and related services to be successful?

In response to question four:

4. What additions or modifications to the special education and related services are needed to enable the student to meet the IEP goals and to participate, as appropriate, in the general education curriculum?

Do the following:

What to do	Example
State the IEP team's conclusion regarding the need for supports beyond those typically provided to all general education students and summarize the data that supports this conclusion, including progress and discrepancy information.	The IEP team believes that Karina requires greater assistance in the area of math than is provided to most students. She has struggled with concepts and applications related to algebra variables, data analysis and probability. Her math scores on the ITBS are well below the proficient level and her test, quiz and assignment scores are consistently within the lowest 10 to 15% of the class.
State the IEP team's conclusion regarding the individual's need for <b>special education</b> services and supports in the new area, and summarize the information that supports this conclusion, including the impact of previous efforts.	The IEP team believes that special education services and supports, including frequent progress monitoring and adjustments to instruction, are needed. Karina currently receives her math instruction in a co-taught classroom and is frequently included in small groups of students who are experiencing difficulties and receive focused instruction by a special educator. In addition, her general education teacher affords her additional, individual time (15-20 minutes, 3-4 times per week) and her parents provide nightly homework support. Weekly algebra probes show little or no gains over the past eight weeks.

In response to questions five and six, include consideration of the new area(s) in the response. Those questions are:

5. Does the student continue to be eligible for special education services, based on the information contained in Questions 1-4?
6. Under what conditions will the IEP team consider exiting the student from special education services?

In the Current Academic Achievement and Functional Performance (CAAFP) section of Page D (Goal) provide detailed information to elaborate the summary information in the response to Reevaluation question four.

Complete all other appropriate information on the Goal and Services pages (D and F).

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**Decreasing or  
Discontinuing a  
Service, Activity,  
or Support**

One goal of special education is to narrow the performance gap between students entitled to services and their general education peers.

When using measurable goals and systematic progress monitoring, it is often found that students improve significantly and no longer require the continued intensive assistance defined in the IEP.

When a student's performance is within the scope of general education instruction, then decreasing or discontinuing special education services, activities or supports must be considered.

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**Communicating  
with Parents**

It is important to have ongoing conversations with parents in order to communicate clearly and frequently regarding the possibility of decreasing or discontinuing special education supports.

This can be done by:

- Setting goals and outcomes and discussing with parents timeframes for decreasing or discontinuing special education supports as the student learns desired skills
  - Reviewing frequently the progress monitoring data with parents and comparing the data to the student's general education peers or grade level standards
  - Involving the parents in considering the following questions:
    - Does the student need curriculum and instruction that is significantly different from general education?
    - Have the goals been met?
    - Is the student's level of functioning becoming similar to that of students not receiving special education supports?
  - When a decrease and/or discontinuing of special education supports is expected, discuss with parents other kinds of school supports, accommodations and the community resources that might be available to maintain the student's success
-

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**Process for  
Decreasing or  
Discontinuing a  
Special  
Education  
Service, Activity,  
or Support**

Students may be identified as likely candidates for decreasing or discontinuing special education services and supports as part of the regular, ongoing progress monitoring or at the request of any IEP team member.

Changes to the IEP that would decrease or discontinue services, activities or supports may be made through the review or amendment process.

The following question may assist the IEP team in making the decision that a student would be successful with decreased or discontinued special education services, activities, or supports:

*“Can the individual’s needs be met successfully in the general education curriculum and in general education environments with the instruction and supports made available to all students?”*

Data sources to answer this question may include:

- Districtwide assessments
- Attainment of IEP goals (academic, behavioral, social)
- Progress monitoring data
- Other assessment data sources
- Information from teachers and parents

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**Process for  
Discontinuation  
of all Special  
Education  
Services,  
Supports, or  
Activities with a  
Trial Period**

When available data does not provide sufficient information for planning and decision-making regarding continuing eligibility for special education, a trial exit period may be implemented. [41.116(7)]

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**Document the  
Plan for the  
Trial Period on  
the IEP**

The trial period may be initiated through a review or amendment process. The answers to the following questions should be documented on the IEP:

- When will the trial period begin?
  - Who will be involved?
  - What supports are needed?
  - How will supports be faded?
  - What will be monitored?
  - Who will monitor?
  - How often will monitoring occur?
  - What is the length of time for the trial period? (The trial period may not exceed 45 school days)
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**Consider the  
Need for  
Additional  
Assessments**

If the IEP team plans new assessments that will be completed during the trial period, the Consent for/Notice of Evaluation form is processed to obtain parental consent.

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**Implement the  
Trial Plan and  
Monitor Success**

During the trial exit period, data are collected on a regular basis to provide the IEP team with the necessary information to make a decision about discontinuing all special education services, supports and activities. This information will include:

- Data derived from monitoring the IEP goals
- Ongoing data on student performance that is collected for all students
- Input from general education teachers, special education teachers, parents and the student (if appropriate) regarding the effects of the trial

In reviewing the data on a regular basis, if the data indicate that the student is not being successful or the IEP is not being implemented as designed, then the IEP team should act immediately to review the implementation of the plan and make adjustments before continuing the trial exit. Based upon the periodic review, the IEP team may decide to resume special education services to the student prior to the projected trial exit date.

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**Reconvene the  
IEP Team at the  
End of the Trial  
Exit**

The IEP team should meet at the end of the trial period to consider the question “Is the student ready to discontinue all special education services?”

Because this is an IEP meeting at which continuing eligibility is considered, it is a reevaluation IEP. The reevaluation process includes the Consent for/Notice of Evaluation form and process and requires the completion of page R of the IEP. Answers to these questions will necessitate a review of the monitoring data and the results of new assessments, if any.

The team will use this information to determine the overall effectiveness of the trial and the students’ continuing eligibility for special education.

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**Document  
Decisions**

If the team decides that the individual can successfully meet the expectations of the general curriculum without special education services, the team must document this change in identification and placement on a Prior Written Notice of Proposed or Refused Action form.

Exiting a student from all special education services also requires completion of the Final Exit form.

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## Transition: Early ACCESS (Part C) to Special Education (Part B)

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### Overview

Early intervention services through Early ACCESS are provided year round for children until the age of three. The AEAs are responsible for assuring that early intervention services are available to all eligible infants and toddlers (birth to age three) and their families. These services may be provided by a variety of agencies.

Early ACCESS services are provided to a wide variety of young children. Some of these children will be determined to be eligible for special education services when they turn three while others will not. AEAs are required to ensure that children participating in Part C early intervention services, and who will participate in Part B (special education services for children from ages three to 21), will experience a smooth and effective transition to preschool programs by their third birthday. [41.124]

Planning for transition is important in order to enhance children's growth and development and family capacity to meet children's needs; as well as establish services and support for children at the age of three.

This section provides background information and procedures for children whom are exiting Early ACCESS at age 3 and are suspected to be eligible for Part B special education.

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### Early ACCESS To Special Education Requirements

The Early ACCESS Procedures address the requirements to be taken by Early ACCESS in partnership with the LEA to support the smooth transition of a child from Early ACCESS to special education or other community services.

The steps involved in order to ensure a smooth transition to special education include, but are not limited to:

- Discussion with, and training of, parents, as appropriate, regarding future services and other matters related to the child's transition
- Collaboration between the AEA and LEA staff responsible for the provision of special education instructional, support and related services and the IFSP team.
- Review of current data (developmental status, IFSP outcomes, etc.)
- Completion of the Disability Suspected form
- For children with a suspected disability, completion of a full and individual initial evaluation (with informed parental consent) to determine eligibility for special education prior to a child's third birthday [41.101(2)]
- If the child is determined to be eligible for special education services, development and implementation of an initial IEP prior to a child's third birthday [41.124(2)]
- Development of a transition plan that includes the child's program options for the period from the child's third birthday through the remainder of the school year and the services to be provided following the child's third birthday

[120.57]

- Preparation for changes in service delivery, including steps to help the child adjust to any changes in services or settings

### Timelines for Children Transitioning from Early ACCESS to Special Education

The following outlines requirements and timelines for children transitioning from Early ACCESS, who are suspected of having a disability and are evaluated to determine eligibility for special education.

Process	Requirement	Timeline
Determination of Eligibility for Special Education	<ul style="list-style-type: none"><li>▪ Obtain written parental consent for evaluation</li><li>▪ Conduct a full and individual initial evaluation (FIE)</li><li>▪ Hold eligibility determination meeting</li><li>▪ Complete the Eligibility Determination Worksheet</li></ul>	Complete on or before the <b>60th calendar day</b> following receipt of the signed <i>Consent for/Notice of Full and Individual Initial Evaluation</i> ; <b>and</b> Prior to <b>the child's third birthday</b>
Initial IEP Meeting	For children determined eligible for special education, an initial IEP meeting <b>must</b> be held to develop and implement an IEP	Complete prior to <b>the child's third birthday</b>

### Eligibility Determination Meeting

Upon completion of the full and individual initial evaluation, the evaluation team will hold an eligibility determination meeting. This meeting must occur prior to the child's 3<sup>rd</sup> birthday and on or before the 60 day time limit.

The purpose of the eligibility determination meeting is to address the question, "Does the child's performance indicate the presence of a disability and the need for specialized instruction and related services?" A group of qualified professionals and the parent(s) of the child determine whether the child is a child with a disability and eligible for special education.

### Initial IEP/Exit Early ACCESS Meeting

For a child who is eligible for special education, the data resulting from the full and individual initial evaluation as well as other relevant information from Early ACCESS are used to develop the initial IEP.

The initial IEP meeting to develop and implement the IEP must occur within 30 days of eligibility determination and prior to the child's third birthday. Developing the IEP may occur during the eligibility determination meeting.

The purpose of the initial IEP meeting is to:

- Develop an initial IEP
- Determine the date special education instructional, support or related services under the IEP will begin for children turning three, and
- Complete steps necessary for exiting a child from Early ACCESS services

The initial IEP meeting must involve the required IEP team members, **and** the Early ACCESS Service Coordinator and/or other IFSP team members at parent request.

Prior to the provision of special education instructional, support or related services outlined in the child's IEP, the parent(s) must sign the Consent for Initial Special Education and/or Related Services form. It is expected that an IEP of an eligible individual will be implemented as soon as possible after an initial IEP team meeting. [41.323]

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**Extended School Year Services (ESYS)**

A child eligible for special education must be considered for extended school year services (ESYS) as necessary for the provision of Free Appropriate Public Education (FAPE). ESYS are provided in accordance with the child's IEP; therefore, discussion of ESYS occurs at the initial IEP meeting. If a decision to provide ESYS is made by the IEP Team, the agreed upon services are documented on the IEP. [41.106]

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**What is the Earliest Age an IEP may be Written for a Child?**

The earliest age an IEP may be implemented for an eligible individual is **2 years 9 months**.

The child and family remain eligible for early intervention services through Early ACCESS until the child's third birthday. Those early intervention services that will continue until the child's third birthday must be described in the IEP.

However, if in the rare and unusual circumstance that an IEP was being considered for a child younger than 2 years 9 months, the IFSP team would need to contact the AEA Director of Special Education to seek prior approval.

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**Early Childhood Outcomes Summary (ECO)**

The IFSP team and IEP team members make a decision about the child's age-appropriate functioning based on the 7-point rating system in the three ECO areas. The teams will document the same rating score on the IFSP and IEP Early Childhood Outcomes forms. **Both forms must be completed.** The data are used to address two different federal reporting requirements.

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## IEPs Written Prior to a Child's Third Birthday

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**IEPs Prior to Age Three** As noted above, the earliest age an IEP may be implemented for an eligible individual is **2 years 9 months**. When an IEP will be implemented prior to a child's third birthday, the child and family remain eligible for early intervention services by Early ACCESS until the child turns three. Those early intervention services through Early ACCESS that will continue must be described in the IEP.

The following outlines the process for providing early intervention services by Early ACCESS until the child's third birthday and meeting the requirements for a smooth and effective transition to special education services.

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**Summer Birthdays** Transition planning for children who turn three in the summer may require more advanced planning due to two factors:

- Scheduling meetings and other activities may be more difficult due to limited availability of AEA and LEA professionals during the summer months, and
- Transitioning from the Early ACCESS system in which year-round services are made available to all children to the special education system in which services during school breaks are provided to individual children based on the decisions of their IEP teams

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**Process of Documenting Early Intervention and Special Education Services on an IEP**

At the Initial IEP/Exit from Early ACCESS meeting for a child who will receive special education services before their third birthday the following process ensures the transition addresses two key elements:

- Early intervention services through Early ACCESS continue until the child's third birthday, and
- Support for a smooth and effective transition to special education instructional, support or related services

The table below describes the three step process for initial IEP meetings held for a child who will receive special education services before their third birthday.

Step	Description
1	<p>At the Initial IEP/Exit from Early ACCESS meeting, inform parents of the following:</p> <ul style="list-style-type: none"> <li>▪ Early intervention services will be provided as documented on the IEP until the child's third birthday</li> <li>▪ Amendment to the IEP occurs following the child's third birthday to discontinue early intervention services</li> <li>▪ Determination of need for ESYS is made and ESYS are documented on the IEP, if applicable</li> <li>▪ Special education instructional, support or related services are documented on the IEP, and</li> <li>▪ IEP Team determines the date when special education services begin and documents this on the IEP</li> </ul> <p><b>Note.</b> Early ACCESS staff will implement procedures for exit from Early ACCESS.</p>
2	Following the initial IEP meeting, the early intervention services by Early ACCESS and special education instructional, support or related services, are implemented as documented on the IEP.
3	<p>When the child turns three, the IEP is amended to reflect the following:</p> <ul style="list-style-type: none"> <li>▪ Current special education instructional, support or related services, and</li> <li>▪ Termination of early intervention services provided through Early ACCESS</li> </ul>

## Transition from Pre-K to K

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### **Transition from Early Childhood to Kindergarten**

Early childhood teams should plan to hold a transition IEP meeting late enough in the school year that the team will have appropriate information for planning and decision making for a student's kindergarten program. In scheduling this meeting, keep in mind that the final ECO must be completed within 90 calendar days of the end of pre-kindergarten services.

At this meeting, IEP teams should write an IEP that describes the current early childhood program and also looks forward to the coming kindergarten program.

On page F, current early childhood services are described with an appropriate starting date (e.g., the IEP meeting date.) The *upcoming* page F services for kindergarten are described with the start date corresponding to the beginning of school in the fall (i.e., August.) The Web IEP will then list these as "future services" and print them separately on the IEP.

Complete a final Early Childhood Outcomes (ECO) page.

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### **Amending the IEP**

In the fall of the kindergarten year, the new IEP team will need to amend the IEP, making all necessary changes. Typically, teacher and Least Restrictive Environment (LRE) information changes and weighting and attending building often change.

As students enter into kindergarten, teams must take care to review appropriate weighting. All early childhood instructional IEPs are weighted level two or level three, only, but many IEPs will change weighting level in kindergarten.

The fall amendment may be an amendment with or without a meeting, depending on the circumstances. The IEP team will decide if an additional meeting is necessary. *At minimum, page F should be changed to reflect the kindergarten program.* The services and supports descriptions may not need to be changed, but the amendment process moves kindergarten services and supports from a "future services" designation to current services. This is especially important to ensure that the correct, current Least Restrictive Environment (LRE) information is entered into the system.

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## Secondary Transition

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### **Secondary Transition Defined**

Secondary transition is designed to be a results-oriented process that is focused on improving the academic and functional achievement of the child with the disability to facilitate the child's movement from school to post-school activities [41.43(1)a]

These postsecondary experiences include:

- Postsecondary education
- Vocational education
- Integrated employment (including supported employment)
- Continuing and adult education
- Adult services
- Independent living
- Community participation

Secondary Transition services are a coordinated set of activities for a child with a disability.

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### **Purpose of Secondary Transition Planning**

The ultimate goal of secondary transition planning is to make the adjustment from high school as easy and successful as possible.

Secondary transition should be based on specific knowledge and experiences of targeted future environments and activities, as well as transition assessment information.

The transition of youth with disabilities from high school to learning, living and working in the community is a process that involves ongoing planning, preparation, and revision. It is not a single event or a series of isolated events.

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### **Secondary Transition Based on the Child's Needs**

Secondary transition services must also be based on the child's needs, taking into account the child's strengths, preferences, and interests. These should be kept in mind when considering the following: [41.43(1)b]

- Instruction
  - Related services
  - Community experiences
  - The development of employment and other post-school adult living objectives
  - If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation
- 

### **When to Begin Secondary Transition Planning**

In Iowa, secondary transition planning must begin no later than when the first [IEP](#) is to be in effect when the child turns 14, or younger if determined appropriate by the IEP team.



## Post-Secondary Transition: Frequently Asked Questions (FAQ)

### 1. How do three year reevaluations and transition assessments relate?

The purpose of the reevaluation is to determine if the student continues to need special education services, supports or activities. If the student continues to need special education services, the information from the reevaluation is used to determine the content of the IEP. A reevaluation may not occur more than once a year and must occur at least once every three years, unless parent and school agree otherwise.

Transition assessment is done on an ongoing basis (at least annually) to identify the student's needs for secondary services supports and activities which will be documented in the IEP. The inclusion of transition assessment in three year reevaluation is a natural step that will save time and ensure the student's needs are met.

### 2. Do I need parent consent before completing transition assessments?

Parent consent must be given prior to collecting *new* information for the purposes of transition planning. Parent consent is not needed to review existing information or when the assessment is something in which all students participate, or done as a routine activity or assignment within the curriculum.

### 3. Can adult service providers be invited without parent/student consent?

If an adult service agency is not providing services to the student prior to the IEP meeting, but may provide services sometime in the future, then the parent (or student who has obtained majority age) must consent to invite the adult service provider. If an agency is providing services to the student *prior* to the IEP meeting, then the LEA may invite the agency as someone who has special knowledge or expertise about the student. Parent consent is not needed when the agency is providing services *prior* to the IEP meeting.

### 4. What happens when IEP team members do not agree on the postsecondary expectations for living, learning, and working?

The postsecondary expectations for living, learning and working should reflect consensus agreement of the IEP team, as these are the statements that drive the identification of needed secondary services, supports and activities. To the extent possible, IEP team members should engage in frank discussions of the skills needed for anyone to pursue the postsecondary expectation and those that the student would need to accomplish in order to pursue the postsecondary expectation. The result of the discussion should be a postsecondary expectation that each member of the team agrees to support. At times, members specific expectations may differ for the postsecondary activity, but can still support the postsecondary expectation as the services provided would be similar. For example, a student may wish to go directly to a four year college, while other members of the team may think a community college to be an easier transition. In instances where IEP members disagree with the postsecondary expectation(s) to the extent that they cannot support it the dispute should be resolved as with any other IEP dispute.

**5. Can I add a new goal as the result of transition assessments if the student is only eligible for one type of service (e.g., reading, math, or writing)?**

Once a student is determined eligible for special education services, he or she is eligible for ANY service depending upon individual need. It is possible that an eligible individual may at first only need reading services but with time may need additional services in math or writing or other areas. It is not necessary to re-determine the individual's eligibility for special education. That is done during the three year reevaluation. In fact, IEP teams must, under IDEA, examine all the student's needs as a result of the disability at each annual review.

**6. Is Work Experience an AEA or LEA service?**

Iowa's new administrative rules identify work experience as an instructional service which means that in most locations it will be provided through the LEA. Iowa's administrative rules define a work experience coordinator as an individual who:

*... plans and implements sequential secondary programs that provide on- and off-campus work experience for individuals requiring specially designed career exploration and vocational preparation when they are not available through the general education curriculum.*

**7. What is the AEA's responsibility to monitor provision of Work Experience?**

As with all other special education services, the AEA is responsible to ensure that students with disabilities receive the services they need, and the services are provided by qualified personnel. This means that if the work experience services are not provided to districts through the AEA, the AEA should have a method to ensure that districts are identifying employment services when needed by students and quality services are provided, including that the district person providing the service is appropriately credentialed, as described above. The AEA should contact the Department for assistance if the AEA encounters non-compliance the district is not willing to correct.

**8. Do you have to write a goal?**

The IDEA requires "appropriate measureable postsecondary goals" to be included in the IEP. If a student's "transition services" are "special education" (specially designed instruction), then the student's IEP is to contain an annual goal (or goals) and describe the special education the student is to receive. If a student's "transition services" are "related services", then the IEP should describe those services in the appropriate place. If a student's postsecondary goals are attainable without special education or related services, then the general education that the student will receive is to be described in the course of study. If a student's non-instructional transition activities are services that all students receive, the LEA, of course, must provide them. Any accommodations or modifications the student requires to progress in the general curriculum should also be described.

**9. When should the IEP team consider continuing secondary special education for students ages 18 to 21 (sometimes known as 4+ programs)?**

There are several types of services commonly referred to as 4+ programs. A 4+ program is any program or set of services that are provided for students who have earned a majority of their graduation requirements, but still have unmet needs, usually in the area of learning or work. These programs and services are located at a site other than the high school. They may be located at a community college, in

the community through a collaborative program with Iowa Vocational Rehabilitation Services (known as the Transition Alliance Program), or in the community through other providers (e.g., Career Connections).

There are currently nine secondary special education programs on community college campuses in Iowa. The specific services they provide range, depending on the program. Their intent, however, is the same: to provide LEAs with an additional option of meeting needs of students with disabilities. Generally, there are three reasons that an IEP team might decide to send a student with disabilities to a secondary program on a community college campus:

1. The student will go on to college, but her or his learning characteristics and generalization skills necessitate time in the actual setting to be successful.
2. The student will go on to college, but needs to learn specific study/accommodation skills in the actual setting.
3. The student may not be successful independently at a college setting, but with supports will gain specific career and technical skills that will provide for a stronger employment outcome.

It is important to remember that these programs must be available to the student as long as the student needs the services and remains eligible for special education. Also, they are considered secondary programs – not postsecondary education. This means that the student must continue to receive a free appropriate public education. The appendix contains more details about these programs.

Collaborative programs funded by IVRS and the LEA or AEA known as TAPs may extend beyond the 4<sup>th</sup> year of high school when it has been demonstrated that the student was unable to adequately develop the work skills necessary for post secondary learning or working goals. However as early as the sophomore year students in TAPs should participate in assessments and work experiences to expose them to vocational options so that by the junior and senior year more advanced and customized training is provided. This will enable the student to be prepared for transition and graduation. Only when the student is not successful in acquiring the skills in the high school years would the student continue in the TAP program for more skill development.

#### **10. Do we have to provide psychological testing so that the student can receive services as an adult?**

No. The provision of specific psychometric testing that is needed solely to meet the eligibility requirements of another agency or service is not the responsibility of the educational agency. The transition requirements of IDEA mandate facilitation and coordination with agencies that might provide services to the individual. IDEA does not require the education agency to establish the individual's eligibility for those services. Many areas around the state have developed working procedures that minimize the complications that can arise from the differing eligibility procedures and practices. At the state level, the Support for Accommodations Request (SAR) form is intended to minimize the number of people who will need psychometric testing to receive accommodations at the state level.

A collaborative effort the Department of Education and IVRS along with AEA 267 has developed a Collaborative Transition Protocol. The protocol encourages and improves the transition process for students, allows for eligibility determination for IVRS services using existing IEP information, allows for Social Security determinations to be completed without additional teacher documentation, and other adult services (Medicaid Waiver) are studying the protocol for consideration of their needs. This protocol has expanded into six other AEAs (for 2010-2011). Other AEAs are studying use of this protocol.

**11. Do I have to complete a Summary for Postsecondary Living, Learning, and Working if I have completed a Supports for Accommodations Request (SAR) form for the same student?**

No. Either form can be used for students who are planning to attend an Iowa institution of higher education. Since the SAR will probably be completed prior to the student's exit from high school, it is important to update it when the student does exit.

**12. Does IVRS need student/family consent to access student records?**

No. IVRS is a division of the Iowa Department of Education and as such, qualifies as an educational agency under 34 CFR, Section 99.3 of the Family Educational Rights and Privacy Act (FERPA). This means that student records can be shared between the school and IVRS without additional consent.

## Seven Parts of the Transition Process

### Transition Process - Part One: Transition Assessment

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#### **Initiate Transition Assessment**

The first part in the transition process is to initiate a transition assessment, that is age appropriate and related to the areas of training, education, employment and where appropriate, independent living skills. [41.320(2)]

This involves collecting and gathering relevant (appropriate) information/data on a student's interests, preferences, strengths and needs as they related to the student's postsecondary expectations for living, learning, and working.

If this assessment meets the IDEA's definition of an evaluation, and it requires more than reviewing existing data, obtain parental consent.

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#### **Iowa Model for Transition Assessment Defined**

The Iowa Model for Transition Assessment defines transition assessment as age appropriate and an ongoing, coordinated, systematic process.

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#### **Elements to Transition Assessment**

Transition assessment provides data from which to plan and make decisions that assist the student to move to postsecondary activities of living, learning, and working.

It Involves input from student, family, school personnel, and other relevant stakeholders such as adult agencies, related services personnel and all members of the IEP team.

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#### **Assessment Should Answer These Questions**

1. What is the student's postsecondary expectation in the areas of living, learning, and working? (While this is the only question asked on the IEP, answering the following additional questions will generate necessary information to complete the IEP.)
  2. What are the essential knowledge, habits, attitudes, and skills that any individual needs for the student's desired postsecondary expectations?
  3. What are the student's current attitudes, habits, basic skills, critical thinking and application skills?
  4. What is the discrepancy between the essential skills and the current skills?
-

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**Tools for  
Answering  
These Questions**

- Use of formal or informal assessments including observation and interview (using the RIOT approach of REVIEW, INTERVIEW, OBSERVE, and TEST)
  - Matrix 1 of the Iowa Transition Assessment Model (refer to table below)
  - Iowa Transition Assessment website accessed at <http://www.transitionassessment.northcentralrrc.org/iowamodel.aspx>
  - Current existing information such as:
    - Information from general education classes, e.g. Iowa Choices (Iowa's career information delivery system)
    - Community members, organizations and adult agencies
      - Employers
      - Vocational rehabilitation counselors
      - Disability support service providers
-

## Transition Process - Part Two: Prepare for the Meeting

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### Meeting Attendance

All team members required to attend IEP meetings of students younger than 14 are also required to be team members for the IEP meeting for which transition is the purpose.

IDEA also requires that any agency that is likely to be responsible for providing or paying for transition services be invited to the meeting. The parent or student who has reached the age of majority must consent to the invitation of the participating agency personnel. [41.321(2)c]

If outside agencies are providing services to the student prior to the IEP meeting then the LEA may invite a representative of the agency as someone who has special knowledge or expertise about the student. Parent consent is not needed to invite representatives of an agency when an agency is providing services prior to the IEP meeting.

IDEA does not require any further action if an agency representative is unable to attend. Effective practice, however, would encourage the LEA to find other means for the agency representative to provide input to the IEP.

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### Consider Need for Additional Information

Consider the need for additional information to team members. It is possible that parents and other people invited to the meeting will need extra information or supports in order to prepare for the meeting.

For example, Iowa Vocational Rehabilitation Services counselors can arrange to meet the family and student in advance to provide information on post school opportunities to ease transition arrangements. For many, the concept of transition is new and they are unaware of the information they can contribute to the meeting.

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### Invite the Student to the Meeting

[IDEA](#) requires that students be invited to their IEP meeting if the purpose of the meeting is the consideration of postsecondary goals and needed transition services. [41.321(2)]

If the student does not attend, the [LEA](#) must take steps to ensure that the individual's preferences and interests are considered in the development of the IEP.

---

### Prepare the Student Prior to the Meeting

The following will help prepare the student so that he/she is able to:

- Understand his or her own strengths and skills and be able to communicate those to others
- Understand disability and communicate to others the nature of the disability and related learning characteristics
- Learn about types of accommodations that might help him/her succeed in the classroom

- Advocate for him or herself and develop skills for self determination and independent decision making
  - Become more involved in her or her own education and provide input to the IEP team in developing goals
- 

**Sending  
Meeting Notice**

The Meeting Notice form should be sent out to the following parties:

- Parents
    - The Meeting Notice needs to be sent to parents notifying them that the student will be invited to the meeting and that the consideration of postsecondary goals, and transition services will be discussed at the meeting
  - Student
  - Other required IEP team members
  - Representatives from outside agencies that have been invited to attend the meeting
-



## Transition Process - Part Three: Hold the IEP Meeting and Develop the Transition IEP

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**The IEP Meeting** The IEP meeting is the time when the services, supports, and activities a student needs in order to have a free appropriate public education are discussed, identified, and documented on the IEP. The completed IEP document is a product of the discussion, not the sole purpose of the meeting.

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**Beginning the Transition Discussion** The transition discussion begins as a broad conversation that focuses over time based on the student's individual need.

There are four factors that help to determine when focused preparation should start and at what level of intensity of services should be provided. These factors are:

- Student knowledge and skill
  - Student learning characteristics
  - Complexity of support needs
  - Number of environments affected
- 

**Developing the Secondary IEP** The development of the secondary IEP is not a linear completion of the IEP which begins at the top of Page B and moves sequentially to the end of Page G. Rather it is a dynamic conversation that incorporates a variety of information and perspectives to determine the most appropriate services, supports and activities to prepare the student to pursue further education, employment and independent living.

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## Process for Completing the Transition IEP

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### Consider the Student's Interests & Preferences

It is important that the interests and preferences be from the student's point of view. List the student's interests and preferences that relate to the postsecondary expectations for living, learning, and working.

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### Documentation of Transition Assessments

The IEP must document transition assessment information for each area of living, working and learning and must include:

- Information sources
  - These are people who provided the assessment information, and/or the tests that were used. It may also include the assessment method. For example, listing student interview or employer observation provides both the source (student, employer) and the method (interview, observation)
- Results
  - These are specific data that were identified during the assessment. They may include specific skills the student demonstrated or could not do or specific test scores. If test scores are used, some interpretation of the score in terms of the targeted postsecondary expectation should be provided

It is not necessary to provide all of the assessment results, just those that are relevant to the pursuit of the student's postsecondary expectations for living, learning, and working.

There should be enough information to determine that the postsecondary area was assessed and whether the student has need for special education services, supports or activities in the postsecondary area.

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**Documentation  
of  
Postsecondary  
Expectations**

A postsecondary expectation must be written for each of the areas of living, learning and working. It should be expressed in a statement that must :

- Project beyond high school
- Be based on assessment information, including interests and preferences
- Be observable
- Include an anticipated result in each area of living, learning, and working
- Become more specific as a student approaches postsecondary transition

If a postsecondary expectation for living, learning, and/or working is an area of need then the IEP must include goals, services, or activities to address the postsecondary area. Since transition is a multi-year process, all needs may not be addressed in the current IEP but included in the course of study for another year.

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**Documentation  
of Course of  
Study**

The course of study must include:

- A general statement listing the means by which it will be determined that the student has met the requirements to graduate
  - Any adjustments to the district's standard graduation requirements must be supported by district policy and be based on need as a result of the individual's disability. The revised criteria for graduation should also be rigorous and clearly measurable
- The student's current status should be described in terms of the completion of the requirements in order to meet the target graduation date
- Target graduation date is the date that the student is expected to have completed the graduation requirement including specified courses and activities

List additional courses that are not already included in the graduation requirements and are necessary for the student to pursue their postsecondary expectations. Also include activities that the student needs to accomplish in order to pursue their postsecondary expectations.

---

**Documentation  
of Goals**

All goals must support the pursuit of postsecondary expectations.

All goals must meet the requirements of a well written goal.

All areas of postsecondary expectations must have a goal or service/activity unless information from the transition assessment does not indicate a need.

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**Follow-up After  
the IEP Meeting**

Following the IEP meeting:

- All service providers, including participating agencies, must be given access to the IEP, and those who were not in attendance must be made aware of their responsibilities for implementing the IEP
  - Begin or continue services as described on page F
  - Implement the procedures for progress monitoring
-

## Transition Process - Part Four: Provide Supports, Services and Activities Including Agency Linkages

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### **Document all Services, Supports, and Activities**

The IEP must include descriptions of all supports, services, and activities including agency linkages necessary for the student to pursue the course of study and post-high school outcomes of living, learning, and working.

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### **Definition and Examples of Supports**

Supports are things or persons provided for the student, or professional development provided for school personnel, that allow the student to have access to education.

Examples are:

- Assistive technology devices [41.5]
- Educational interpreters or paraprofessional support provided to a student [41.34(3)“d” [41.403]
- In-service opportunities or professional literature provided for school personnel [41.207]

For students considering postsecondary education, high school teams should address assistive technology needs. Most postsecondary institutions expect prospective students with disabilities to have the knowledge and skills to utilize assistive technology.

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### **Definition and Examples of Services**

Services are actions designed to meet the unique needs of a student.

Services may be things that are required to assist the student, or educational opportunities.

Examples are:

- Specially designed instruction [41.39(3)“c”]
- Related services [41.34(1)]
- Health services [41.405]
- Transition services [41.43]

For students of transition age, it is important to consider the need for these services as they apply to the next environment.

---

**Definition and Examples of Activities**

Activities are those events or tasks that a student needs to complete in order to access the educational program.

For a student of transition age, identifying activities is particularly relevant as they represent the events or tasks the student needs to pursue a postsecondary goal expectation, but are areas where the student does not need specialized instruction to learn the skill.

For example, for students who need support, but not specialized instruction, to get a driver's license (e.g., accommodations to pass the test,) obtaining a driver's license becomes an activity.

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**Definition and Examples of Agency Linkages**

Agency linkages are those actions that need to be taken in order to connect with any agency or organization that might be helpful or provide funding or services in the postsecondary living, learning, and work environments.

Examples are:

- Disability support service providers at postsecondary colleges and universities
- Iowa Vocational Rehabilitation Services
- Social Security Administration
- Other agencies serving adults

It is important to develop these linkages while students are still in high school as these agencies may also help with transition services.

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## Transition Process - Part Five: Monitor Progress

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### **Review and Document Progress at the End of the Reporting Period**

Progress monitoring and decision-making is carried out on an ongoing basis, as described on the Goal page. At the end of each progress reporting period, the student's progress on the IEP goals and the status of special education services, activities and supports should be reviewed and reported to parents and students who have reached the age of majority.

If the special education services, activities, and supports have not been completed as indicated on the IEP, this should be explained in the progress report.

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### **Agencies Fail to Provide Transition Services**

If a participating agency fails to provide agreed-upon transition services contained in the IEP of a student, the district that is responsible for the student's education will, as soon as possible, initiate an IEP meeting to identify alternative strategies to meet the transition objectives and, if necessary, revise the student's IEP.

No participating agency, including a state vocational rehabilitation agency, is relieved of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility requirements of that agency. [41.324(3)b]

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### **Alternative Strategies if Services have not been Provided**

Alternative strategies to consider if services discussed have not been provided are: [41.324(3)a]

- Identification of another funding source
  - Referral to another agency
  - Identification of other districtwide or community resources that it can be used to meet the student's identified need appropriately.
- [41.324(3)a]
-

## Transition Process - Part Six: Prepare for Transfer of Rights at Age of Majority

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**Description of Age of Majority** Under the provisions of the IDEA and its implementing regulations, students in special education are adults when they reach the age of majority, which is age 18 or upon marriage in Iowa. An individual under age 18 who is tried and convicted in adult criminal court and sentenced to an adult corrections institution also attains the age of majority for some purposes. At that time the individual becomes eligible to make the individual's own educational decisions, previously made by parents.

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**Transfer of Rights** Notice and documentation of transfer of rights are required at the following times:

- Notice that rights will transfer
  - Beginning at least one year prior to the student's 18<sup>th</sup> birthday (effective practice would suggest beginning at age 14) or at the time of the student's marriage, the IEP shall reflect that the student has been informed of the rights that will transfer to him or her [41.320(3)]
- Notice that rights have transferred
  - When the student turns 18, districts must also provide notice to parents and students that the rights have transferred. This notice does not have to be sent to the parents if the student is incarcerated in an adult prison. Documentation of notification should be kept in the student's file [41.520(1)]
- Notice that rights have not been transferred
  - In special cases (e.g., establishment of guardianship or another individual has been appointed to represent the educational interests of an eligible individual) the right to determine educational decisions does not transfer to the student. The notice should document the reason why the rights did not transfer [41.520(2)]

Contact the Iowa Department of Education for materials that will assist in fulfilling these requirements.

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**Age of Majority Changes Services Students Receive** The IEP team should be aware that many services students receive as children change when they turn 18 so that they can assist and plan for those transitions.

For example, both foster care and social security have changes that significantly affect students. Students who receive SSI benefits as children may not continue to receive those benefits as adults. At age 18, social security will evaluate the student's disability under the adult disability regulations, which, depending on the child's disability, may differ significantly from the childhood disability regulations. Many students are determined not to be disabled as adults and lose their SSI benefits. IEP teams should be aware of these situations and work with the respective agencies.



## Transition Process - Part Seven: Prepare for Student Exit from High School

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**Overview** When a student exits special education due to graduation from secondary school or due to exceeding the age eligibility for FAPE, the student must be provided a summary of his/her academic achievement and functional performance which shall include recommendations on how to assist the student in meeting his/her postsecondary goals. [41.305(5)c]

Either a Summary for Postsecondary Living, Learning, and Working form, or a Support for Accommodation Request form (SAR) must be completed to meet this requirement.

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**Summary: Postsecondary Living, Learning, and Working Form** This form consists of eight sections and must be completed at the senior exit meeting or in the senior year.

It must be current at the time of the student's exit. Although not required, it is recommended that the form also be completed with students who drop out of school.

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**Purposes of the Summary for Postsecondary Living, Learning, and Working Form** There are several purposes for the Summary for Postsecondary Living, Learning, and Working:

- Provides students and families with a brief description, in one location, of the supports and services provided in high school in preparation for the student's targeted postsecondary expectations
- Provides a place to list the linkages recommended for the student to pursue the targeted postsecondary expectations as well as resources to contact if something doesn't work as planned
- Provides a document for students to use with receiving agencies to provide a brief overview of supports and services received in high school.
  - For example, vocational rehabilitation will use this form to assist the student in making the appropriate arrangements for accommodations and support services

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<b>Summary: Support for Accommodation Request Form (SAR)</b>	<p>This form is to be used for students enrolling in postsecondary education.</p> <p>It is not necessary for IEP teams to complete both a SAR and a Summary of Postsecondary Living, Learning, and Working for one student.</p> <p>It is necessary however, for the form being used to be current at the time of the student's exit.</p>
<b>Purpose of the Support for Accommodation Request (SAR)</b>	<p>The Support for Accommodation Request form (SAR) provides the basis for verifying eligibility and supporting requests for accommodations, academic adjustments, and/or auxiliary aids at the postsecondary level.</p> <p>Although the right to FAPE ends when students earn their high school diploma, under the Americans with Disabilities Act (ADA) and section 504 of the Rehabilitation Act of 1973, individuals with disabilities are guaranteed certain protections and rights for equal access to programs and services, regardless of age.</p> <p>In order to access these rights in higher education, an individual must present documentation indicating that the disability substantially limits some major life activity.</p> <p>The information on the SAR may save the student and family time and expense needed for additional psychological assessments required for eligibility determination for accommodations at the postsecondary level.</p>
<b>Support for Accommodation Request (SAR) Content</b>	<p>Students and their teachers or transition coordinators summarize relevant and useful information from a variety of sources (IEP's, assessments, reevaluations, and high school records.)</p> <p>Generally speaking, current (within three years) information provides the best picture of the current functional impact of the disability. However, disability student service providers at the postsecondary level use common sense and discretion in accepting older documentation of conditions that are permanent or stable.</p> <p>Likewise, changing conditions and/or changes in how the condition impacts the individual brought on by growth and development may warrant more frequent updates in order to provide an accurate picture.</p> <p>Therefore, offices of student disability services reserve the right to request additional information in order to determine eligibility and to provide appropriate and reasonable accommodations.</p>

# Exiting Special Education Services

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**Exit  
Circumstances  
Ending Eligibility**

Once an individual is determined to be eligible for special education, four circumstances can end eligibility:

- Graduation with a regular diploma,
- Reaching the maximum age for eligibility,
- The decision of an IEP team that an individual is no longer eligible,
- Parent or age-of-majority student revocation of consent for special education and related services

Each of these circumstances requires adequate notice using the “Prior Written Notice of a Proposed or Refused Action” as well as the completion of the required statewide Exit form.

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**Exit  
Circumstances  
When Eligibility  
is Retained**

There are several circumstances when an eligible individual is removed from special education rosters, but eligibility is retained:

- Attending school, but not attending special education services;
- Not attending school;
- Competent private instruction if the parent declines all special education services

Each of these circumstances requires adequate notice using the “Prior Written Notice of a Proposed or Refused Action” as well as the completion of the required statewide Exit form.

If a student returns to special education services following any of these circumstances, special education services may be reinstated (see below).

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## IEP Team Procedures for Determining Graduation

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### **Legal Requirements Concerning Graduation**

Graduation from school programs has a separate set of legal requirements:

1. All school districts are required to have a policy concerning graduation requirements for eligible individuals and procedures for the graduation of eligible individuals. [41.404(1-2)]
  2. Graduation is a change of placement. Graduation with a regular high school diploma signifies the end of a free and appropriate education for the student and requires the completion of the “Prior Written Notice of a Proposed or Refused Action” form. [41.102(1)“c”(3)]
  3. The term “regular high school diploma” does not include an alternative degree that is not fully aligned with the state’s academic standards, such as a certificate or a general educational development credential (GED). [41.102(1)“c”(4)]
- 

### **Establish Timelines and Criteria for Graduation**

Establish timelines and criteria for graduation:

- Document the anticipated month and date of graduation
  - Document clearly what the criteria will be for the eligible individual to graduate. Possible criteria are:
    - Graduation based on meeting the same requirements as individuals without disabilities
    - Graduation based on meeting specified goals as well as completion of a stated number of graduation credits
    - Satisfactory completion of courses and activities specified in the individual’s IEP
- 

### **Determine if Graduation Requirements in IEP Have Been Met**

Determine whether or not the graduation requirements specified in the IEP have been met:

- If requirements HAVE BEEN MET and the student is graduating with a regular diploma, a reevaluation is not required to terminate special education services [41.305(5)b]
  - If requirements ARE NOT MET and the IEP team recommends continued programming for a student, a new IEP should be developed
  - If requirements ARE NOT MET and the student chooses to exit special education services despite the team’s recommendation, this should be document on the “Prior Written Notice of Proposed or Refused Action” form. This form should be completed at the meeting where the decision to exit services is made
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# Reaching Maximum Age for Service

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**Determine if FAPE Will Terminate Due to Student's Age** It is necessary to determine if the obligation to make FAPE available to the student will end due to the student's age.

A student turning 21 during the school year will be eligible to finish the school year. A part of the IEP process, linkages with community agencies will be established to assure a smooth transition to adult services.

In rare circumstances, an LEA or AEA may continue special education and related services to an eligible individual beyond the school year in which the individual turns 21 if the person had an accident or prolonged illness that resulted in delays in the initiation or interruption in that individual's education program. The AEA director of special education must request approval from the department, which may be granted for up to the individual's twenty-fourth birthday. [41.102(1)"e"]

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**Completion of Various Forms Due to the Student's Circumstance** All students who graduate with a regular diploma or are exited due to reaching maximum age must be provided with a summary of their performance. The IEP team should complete the form appropriate to the student sometime near the time the student graduates or exits school.

Teams should complete the form appropriate to the need of the student:

- Final Exit - for all students graduating from high school or reaching maximum age
- Postsecondary Summary for Living, Learning and Working or, for students going to an institution of higher education, the Student Accommodation Request (SAR)

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## Parent Revocation of Consent for Services

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**Right to Revoke Consent for Services** Effective December 31, 2008, federal regulations were amended to permit parents to unilaterally withdraw their children from further receipt of special education and related services by revoking their consent for the continued provision of special education and related services to their children. As long as a parent has the legal authority to make educational decisions for the child (married parents, divorced parents when each retain decision making rights, etc.), the school or AEA **must accept either parent's** revocation of consent.

**Note:** Age-of-majority students also have the right to revoke consent for their special education services.

An AEA or LEA **may not** use mediation or a due process hearing to challenge the parent's decision or to seek a ruling that special education and related services must continue to be provided to the child.

Parental revocation of consent must be **in writing** and upon revocation of consent the LEA or AEA must provide the parent with prior written notice before ceasing the provision of special education and related services.

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**Revocation Ends all IEP Services and Supports** Parent/age-of-majority student revocation affects **all** services and supports. That is, parents/age-of-majority students do not have the right to revoke consent for one or more of a student's special education services and to have other services continue. If a parent or age-of-majority requests that one or more special education services end and to have other services continue, use the IEP amendment or review process to address that request.

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**Revocation of Consent and Competent Private Instruction (CPI, Home Schooling)** A parent request to provide CPI **is not** a revocation of consent for special education and related services even if the parent declines all special education services while providing CPI. If home-schooling parents re-enroll their eligible individual (wholly or through dual enrollment for special education services), IEP services may resume. Reevaluation may be pursued if current assessments are needed for sound planning and decision-making. A parent who first revokes consent for special education services and later initiates CPI **does not** need to request Director approval of CPI.

---

**Student Records Following Parent Revocation** A public agency is not required, because a parent revokes consent for continued services, to amend a child's education records to remove references to the child's receipt of special education and related services. Revocation of consent for special education services **does not** affect the rights of parents or eligible students to request amendments to information in education records that the parents or age-of-majority student believe to be inaccurate or misleading, or to violate the privacy or other rights of a child.

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**Further  
Implications of  
Parent  
Revocation**

Following revocation of consent, a student does not have IDEA discipline protections and may be disciplined as any general education student would be. The student, by virtue of revocation, is no longer an eligible individual and the LEA **is not** deemed to have knowledge that the child is a child with a disability.

Revocation of consent ends the IDEA responsibility to provide any general education accommodations specified in the IEP. The Iowa Department of Education has also informed school districts and AEAs that parents may not demand Section 504 plans after withdrawing their children from special education. This information is based on a policy document issued by the U.S. Department of Education Office of Civil Rights in 1996. This does not preclude districts from offering children in these circumstances appropriate accommodations that might allow the child to achieve some measure of success in school.

Revocation may also impact nonschool programs (e.g., SSI, ACT or SAT testing accommodations, etc.).

---

**Document  
Revocation of  
Consent for  
Service**

When it is determined that a student should be exited from special education services due to the revocation of consent for services, the student is removed from the roster and the Exit form is completed using the appropriate exit code (RRT) for IMS.

The Prior Written Notice of Proposed or Refused Action form is also completed and provided to the parents and, if appropriate, the age-of-majority student documenting the cessation of services and supports by the LEA and/or AEA. Provide Prior Written Notice of the cessation of services and supports **after** receiving the parents' written revocation, **but before** ending services. The LEA and/or AEA work with the parents to determine an agreed-upon date in the same way as other Prior Written Notices.

In communication and notice to parents/age-of-majority students, it may also be important to inform parents and student of the potential impact on nonschool programs (e.g., SSI, ACT or SAT testing accommodations, etc.).

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**Re-establishing  
Special  
Education  
Eligibility After  
Parent  
Revocation**

If, after a revocation of consent, parents or an age-of-majority student want to resume special education services an **initial evaluation** is conducted. Under this circumstance, existing information may provide much of the necessary data, but the assessment is processed as an **initial** evaluation, not a reevaluation. Evaluation teams will need to review existing information and determine if that information is sufficient enough and current enough for sound planning and decision-making.

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## Nonattendance of Special Education Services or Nonattendance of School

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**Nonattendance** No program should continue to maintain a student on its roster indefinitely if the student does not attend school or does not attend special education services.

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**A Student Who Attends School, But Not His or Her Special Education Services** If an eligible individual is attending school but is not attending his or her special education services, the school and/or AEA should pursue the appropriate avenues to ensure attendance. These avenues include:

- Notifying and enlisting the help of parents
- Interviewing the student
- Reviewing the appropriateness of the program and implementing any necessary changes

All efforts to ensure attendance should be documented and the current IEP should be reviewed to ascertain whether any of the goals can be met in the general education setting with appropriate accommodations.

---

**A Student Who Does Not Attend School** If the student is failing to attend school, the school should take action to ensure attendance.

The LEA should pursue mediation or compulsory school attendance legal actions according to district policy. If the student is beyond compulsory attendance age, the IEP team should meet (attempting to include the student and parents) and discuss alternative educational options.

All efforts to ensure attendance should be documented.

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**Documenting Exits Based on Nonattendance of Services or Nonattendance of School** When it is determined that a student should be exited from special education services for not attending services or for nonattendance of school, the student is removed from the roster and the Exit form is completed using the appropriate exit code for IMS.

When a student is exited when he or she ***attends school, but does not attend his or her special education service***, the correct exit code is **RRT**.

When a student is exited because he or she ***does not attend school***, the correct exit code is **DRO**.

Complete a Prior Written Notice of Proposed or Refused Action form documenting the actions and provide this to the parents. Note on this form that the student maintains his or her special education eligibility (disability and program recommendations) and retains the right to return to the special education program or service.

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**Reinstatement  
of Special  
Education  
Services**

If a student who has been exited but retains eligibility returns to school or to services, the special education services may be reinstated as previously documented in the IEP.

The Prior Written Notice form is completed and provided to the parents/age-of-majority student documenting the action (i.e., resuming services).

If the IEP is current (i.e., the review date is not past due), consideration should be given to whether an IEP review or amendment is needed to take into account current data or circumstances.

If the IEP has expired, an IEP meeting must be held to review and revise the IEP.

If the student returns to special education services after a lengthy period, the IEP team should consider potential reevaluation needs. If additional assessments are necessary in the reevaluation process, parent or age-of-majority student consent (Consent for/Notice of Evaluation form) must be obtained.

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## Students Who Transfer Schools

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### Transfers Within Iowa

If a child with an IEP transfers from one school district to another within Iowa and enrolls in a new school within the same school year, the new district, in consultation with the parents, must provide FAPE to the child.

The new district must also provide services comparable to those described in the child's IEP from the previous school until the new school either: [41.323(5)]

- Adopts the child's IEP from the previous school
  - Develops, adopts, and implements a new IEP
- 

### Transfers from Another State

If a child with an IEP transfers to Iowa from another state in the same school year, the new district, in consultation with the parent, must provide FAPE to the child including services comparable to those described in the child's IEP from the previous school. This must be done until the new school reviews available information.

LEA and AEA professionals will review all available information regarding a transfer student from another state who was identified as eligible for special education in that state. If available information is sufficient to determine that the child is an eligible individual under Iowa guidelines, and that there is sufficient information to appropriately implement the existing IEP or develop a new one, no reevaluation is required.

If available information is insufficient to determine if the child continues to be an eligible individual under Iowa guidelines, or the information is insufficient to appropriately implement the existing IEP or develop a new IEP, the reevaluation process must be initiated.

This would include obtaining parental consent by completing the Consent for/Notice Evaluation form. Upon completion of the reevaluation, the Iowa IEP team must make an eligibility determination (reevaluation question #5) and, if the child is an eligible individual, develop a new IEP.

Any change in placement or eligibility would be documented on the Written Prior Notice form.

**Note:** In order to assure correct roster and weighting information, an Iowa IEP must be developed for transfer students from other states.

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## Behavior and Discipline: Behavior

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### **Behavior Concerns Defined**

Behavior concerns are any current or potential child / youth behaviors that impede student learning and require support within or outside of the general education classroom. This includes the following health concerns: [41.301(6)]

- Social
  - Emotional
  - Behavioral
  - Mental
- 

### **IEP Team Must Address Behavior and Make Decisions**

An IEP team must address the behavior of all eligible individuals.

The team may determine that:

- Behavior is not a concern
  - Behavior needs to be addressed in some way
    - Information provided in the PLAAFP
    - Classroom accommodations
  - A Behavior Intervention Plan (BIP) including a behavioral goal and specific actions based on Functional Behavioral Assessment (FBA) is necessary
- 

### **Preventative Approaches to Behavior: Using PBIS**

The team's focus in addressing behavior should be on preventative approaches to increase or decrease child / youth behavior skills.

In the case of a student whose behavior impedes his or her learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports (PBIS) and other strategies to address that behavior. [41.324(1)]

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### **Positive Behavioral Interventions and Supports (PBIS) Defined**

PBIS is a broad range of systemic and individualized strategies for achieving important social and learning results while preventing problem behavior (Center on Positive Behavioral Interventions and Supports, 2001.)

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### **Purpose and Function of PBIS**

PBIS focuses on preventing academic and behavioral problems, and provides the framework for supporting children / youth with IEPs that have been identified to have academic and / or behavioral problems.

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### **Three Tiers of Supports**

The PBIS model establishes three tiers of supports for students within school systems.

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**Tier One - Core** Research indicates approximately 80% of students are supported by general practices and prevention efforts at the building level. When this is not systematically addressed, it will lead to an increase in suspension / expulsions and referrals to special education. The goal of this level is to prevent problem behaviors from occurring.

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**Tier Two - Supplemental** Research indicates approximately 15% of students require more targeted, small group supports implemented to decrease the likelihood special education services and supports will be needed. The goal at this level is to prevent problem behaviors from intensifying.

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**Tier Three - Intensive** Research indicates that approximately 5% of students require intensive supports implemented by specially trained educators to increase the likelihood of success in school and life. The goal at this level is to reduce the severity of problem behaviors and instances of intense behaviors. Individualized student-centered plans (Behavior Intervention Plans (BIP), based on information gathered from a Functional Behavioral Assessment, (FBA) are developed using a problem-solving approach.

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**General Education Preferred** It is required that general education interventions are developed, implemented and evaluated before it is decided that a student may need more targeted or intense supports and services.

If general education interventions and supports are sufficient for a behavior concern then the student should continue to be supported in the general education environment. [41.312]

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**Functional Behavioral Assessment Comes First** In order to consider the use of positive behavioral intervention and supports (PBIS) for an individual student, or develop a behavior intervention plan (BIP) a functional behavioral assessment (FBA) must be completed.

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# Functional Behavioral Assessment (FBA)

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**What is FBA?** Functional Behavioral Assessments (FBA) identify the function(s) of an individual student's behaviors and provide information leading to effective interventions and needed supports.

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**Purpose of FBA** An FBA allows educators to better understand the following areas of concern:

- Skill deficits (academic and behavioral)
- Performance deficits (academic and behavioral)
- Student preferences
- Reinforcement that is maintaining appropriate and/or challenging behavior.

For a student who becomes subject to disciplinary action a functional behavioral assessment is used to develop a behavior intervention plan within the context of the IEP process.

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**When to Conduct a FBA** A FBA is conducted when child / youth behaviors impede learning and therefore require support within or outside of the general education classroom. This includes the following concerns that prohibit the students learning or the learning of other students:

- Social
- Emotional
- Behavioral
- Mental health

---

**Three Situations When a FBA is Conducted**

1. A FBA may be conducted for any child / youth with a behavior concern in order to best understand the purpose / function of behavior and develop an effective support plan. This includes children / youth that are: [41.530]
  - In general education
  - Receiving an intervention through the IDM process
  - Being considered for special education
2. A FBA should be conducted for any eligible child / youth with a behavioral concern in order to develop an effective behavioral goal and / or behavior intervention plan (BIP)
3. A FBA **must** be conducted for any child / youth with an IEP who faces specific disciplinary actions that would result in removal for:
  - More than ten consecutive school days
  - More than ten school days for separate incidents of behavior that constitute a pattern (***see Discipline section for specific information about when a FBA must be conducted***)

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**Thinking  
Functionally**

The underlying philosophy of any FBA process is “thinking functionally,” or identifying the purpose (function) of why a student is exhibiting a specific behavior of concern. The severity of the behavior of concern will determine the level of intensity of the FBA.

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**Three  
components of  
FBA**

There are three components of an FBA: (1) Descriptive Assessment (Indirect and Direct Assessment), (2) Data Analysis, and (3) Hypothesis Development.

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**Descriptive  
Assessment -  
Indirect  
Assessment**

Information is gathered about the target behavior indirectly via:

- Record reviews,
- Semi-standardized checklists, and
- Interviews.

Some examples are:

- Record review of existing documents
    - Cumulative file,
    - Special education file,
    - Special education teacher working file, and
    - General education teacher working file.
  - Structured interviews
    - Teacher,
    - Parent, and
    - Student.
  - Student-Assisted Functional Assessment Interview (Kern, Dunlap, Clarke, & Childs, 1994)
  - Motivation Assessment Scale (Dunlap & Crimmins, 1996-2001)
  - Problem Behavior Questionnaire (Lewis, Scott, & Sugai, 1994)
  - Functional Analysis Screening Tool (Iwata, 1996)
- 

**Descriptive  
Assessment –  
Direct  
Assessment**

Information is gathered about the target behavior by observation.

Some examples are:

- Anecdotal records of observations that are then analyzed for function
- Antecedent – Behavior – Consequences (ABC)
- Direct observation; frequency count
- Preference Assessment

<b>Data Analysis</b>	<p>Review data gathered from Descriptive Assessment (indirect and direct assessment.) Determine the following:</p> <ul style="list-style-type: none"> <li>▪ Presence of a skill deficit and/or a performance deficit</li> <li>▪ Patterns of behavior from individual sources</li> <li>▪ Convergence of data from various sources that leads to <b><u>Hypothesis Development</u></b></li> </ul>
<b>Skill or Performance Deficit</b>	<p>To determine the presence of skill versus performance deficit, the data analyzed should provide enough information to answer the following question. Is it that the student can't use appropriate behavior instead of the behavior concern (skill deficit) OR is it that the student doesn't use the appropriate behavior instead of the behavior of concern (performance deficit?) For example, the student is nonverbal and is expected to ask for help but does not do so (skill deficit) versus the child is verbal and is expected to ask for help but does not do so (performance deficit.)</p>
<b>Patterns of Behavior</b>	<p>The data analyzed should provide enough information to uncover patterns of behavior across sources used. If patterns are not able to be determined, it may be that more data should be gathered before developing a hypothesis.</p>
<b>Hypothesis Development – Convergence of Data</b>	<p>Convergence of data from various sources means that data from multiple sources suggest the same function. Such convergence can be sufficient information to design and implement a Behavior Intervention Plan (BIP). Lack of convergence evidence is evidence of the need for <b>Experimental Analysis</b> to identify the function of the behavior of concern.</p>
<b>Experimental Analysis</b>	<p>The main manipulation of antecedent and/or consequence variables in analogue or natural settings utilizing a reversal of alternating treatment design to establish repeating patterns of behavior. <b>Note:</b> Strong convergence of descriptive assessment data may eliminate the need for experimental analysis.</p> <p>The two methods of Experimental Analysis are:</p> <ul style="list-style-type: none"> <li>▪ Hypothesis testing-Structural Analysis (Dunlap et.al.,1991)</li> <li>▪ Functional analysis (Iwata et. al.1982/1994)</li> </ul> <p>Formal training is required to conduct a technically adequate experiment analysis. It should be noted that the function of behavior may be hypothesized strongly enough through descriptive assessment so that an experimental analysis is not necessary.</p>
<b>The FBA Process is not Linear</b>	<p>The FBA process is not linear. The process is dynamic, fluid and on-going. The response to the intervention is continually being monitored. Many times a variety of school personnel are recruited to collect data. However, the analysis and interpretation of data should be led by someone with background and knowledge in functional behavior assessment.</p>

## Procedures for Conducting a Functional Behavioral Assessment (FBA)

<b>1 – Obtain Parental Consent, if Appropriate</b>	<p>Parental consent is required in order to collect any data beyond that which is currently available to complete a FBA (see reevaluation section.)</p> <p>If no new data are needed to complete the FBA, then no parental consent is required.</p>
<b>2 – Clarify the Behavior of Concern</b>	<p>The behavior(s) of concern should be stated in clear, measurable and observable terms. The behavior of concern is the target behavior you want to increase or decrease.</p>
<b>3 – Identify Student Strengths</b>	<p>Identified student strengths should provide a foundation for decreasing the behavior(s) of concern and increasing replacement behaviors.</p> <p>For example – the student has high language comprehension ability; the student is able to use picture cues / prompts.</p>
<b>4 – Summarize Existing Indirect Assessments</b>	<p>Document existing data from all sources and methods. Include identification of data sources and include attachment s if necessary.</p>
<b>5 – Determine if New Information is Needed</b>	<p>The purpose of a FBA is to enhance an understanding of the purpose and function of a student’s behaviors and provide information leading to interventions and needed supports.</p> <p>To do this, information / data must be able to answer questions specific to student skills, problem analysis and environmental conditions as described on the state’s Functional Behavioral Assessment Summary form.</p>
<b>6 – Conduct Additional Descriptive Assessments (Indirect/Direct Assessment)</b>	<p>If the summary of existing indirect assessment is not sufficient to address these questions, new information is needed through additional indirect and / or direct assessment methods.</p>
<b>7 – Analyze Descriptive Assessment Data</b>	<p>Establish the presence of a skill and/or performance deficit. Establish the presence or absence of convergence of data from various sources that suggest a function that is maintaining the target behavior.</p>



**8 – Generate a Hypothesis Statement**

Based on a convergence of data reflected in the *Data Analysis*, determine the function of the behavior(s) of concern.

There are three functions of behavior:

- Positive Reinforcement (Gain)
  - Behavior to obtain attention, desired item, sensory stimulation, or activity
- Negative Reinforcement (Escape)
  - Behavior to escape a non-preferred situation, sensory stimulation or activity
- Automatic (Biologic)
  - Behavior that is related to an internal/intrinsic condition that is not mediated by social factors

Gain and Escape may occur concurrently (referred to as Multiple Function.) Gain and / or Escape should be ruled out before an Automatic function can be determined.

Document additional information such as significant setting events that may affect the behavior(s) of concern. If a hypothesized function is unclear, an experimental analysis may be necessary.

Formal training is required to conduct a technically adequate experimental analysis.

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**9 – Complete the State FBA Summary Form**

This form provides summary documentation of the current FBA.

Document if the FBA led directly to the development of a behavioral intervention plan (BIP.)

Please note that the FBA process is dynamic, fluid and on-going and should be reviewed at least annually in conjunction with the IEP review process. An FBA that results in the development of a BIP, 504, or other intervention for any student regardless of eligibility, should be reviewed at least annually as well.

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**10 – Provide Results to Parents**

Provide results of the FBA to all team members, including parents.

It is not required that results are provided to parents prior to a team meeting, however best practice would allow parents time to be active members of the team developing an intervention.

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**11 – Use FBA Results**

Use results of appropriate interventions. This might be done through:

- A BIP
  - IEP accommodations
  - Intervention plan implemented through general education
-

## Behavior Intervention Plan (BIP)

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### **Behavior Intervention Plan (BIP) Defined**

A Behavior Intervention Plan is defined as a written, specific, purposeful, and organized plan which describes positive behavioral interventions and supports and other strategies that will be implemented to address goals for a student's social, emotional, and behavioral development.

For students whose behavior prompts disciplinary action, the behavioral intervention plan addresses the behavior of concern.

Summary FBA results, relevant information, and parent, student, and school personnel input are used to develop an appropriate BIP.

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### **Who Should be Involved in Developing the BIP?**

The IEP team determines who are the appropriate personnel involved in the development of the BIP. These members must include an LEA representative, the parents, and other relevant members.

There are no laws surrounding who must be a part of the team developing a BIP for students without IEPs.

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### **When to Implement a BIP**

A BIP may be implemented when child / youth behaviors impede learning and therefore require support within, or outside of the general education classroom. [41.530]

This includes social, emotional, behavioral, and mental health concerns that impede the student's learning or the learning of other students.

There are three situations where the development of a BIP (based on the results of a FBA) is considered:

1. A BIP may be developed for any child / youth with a behavior concern. This includes individuals:
    - In general education
    - In intervention through the IDM process
    - Being considered for special education
  2. A BIP may be developed for any eligible child / youth with a behavioral concern that negatively impacts academic progress or school performance
  3. A BIP must be developed for any child / youth with an IEP who faces specific disciplinary actions that would result in removal:
    - For more than ten consecutive school days
    - For more than ten school days for separate incidents of behavior that constitute a pattern (see Discipline section for specific information about when a FBA must be conducted)
-

---

**What to Consider Before Developing a BIP**

A BIP must contain a clear, measurable definition of the target behavior.

For example:

- Jenny sits quietly during classroom discussions without raising her hand or adding comments for the group
- John makes noises with his mouth, limbs, or utensils during silent seatwork time
- Jada strikes other children with her hands

The BIP must be linked to the function (or hypothesized function) of the target behavior. Addressing behavior effectively also requires the BIP to include prevention strategies (antecedents) instruction in alternative / replacement behavior (skills) that achieves the same function as the target behavior, and response strategies (how to reinforce or not reinforce) for both the new behavior being taught and the old behavior being changed.

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**Needed Items to Develop a BIP**

The content of the BIP is based directly on FBA results documented on the most current FBA summary form.

The following items are needed to develop an appropriate BIP:

- The most current FBA summary form
  - The hypothesized function
  - The exact wording of the behavior of concern from the FBA summary form
  - Baseline data
  - Behavior goal indicated on the IEP, if applicable
-

## Procedures for Developing a Behavioral Intervention Plan (BIP)

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<b>1 – Convene the Team to Develop the BIP</b>	Document on the IEP on the Service and Supports page the team of individuals who have authority to modify the BIP without full IEP team representation. This team is designated by the full IEP team.
<b>2 – Review the Results of the Most Current FBA Summary</b>	The BIP should be developed based on FBA summary results, and directly related to the hypothesized function. If applicable, also review progress monitoring information from general education interventions.
<b>3 – Determine Alternative or Replacement Behavior</b>	<p>An alternative / replacement behavior should be identified that the child can use to reach the same function as identified in the FBA hypothesis.</p> <p>This behavior will replace the behavior(s) of concern for the student to obtain the same results.</p> <p>Further, determine whether the student is able to display the alternative / replacement behavior, as well as the level of reinforcement necessary to maintain the behavior.</p>
<b>4 – Develop Preventative Strategies</b>	<p>Review all salient information on the FBA summary form in order to develop appropriate prevention strategies, specifically:</p> <ul style="list-style-type: none"><li>▪ Problem analysis results</li><li>▪ Environmental conditions</li><li>▪ Antecedents</li></ul> <p>These strategies include changes in instruction, choices, and environment which are needed to decrease or prevent the behavior(s) of concern.</p>
<b>5 – Develop Teaching Strategies</b>	Review all salient information on the FBA summary form, specifically the Alternative or Replacement behavior section to develop appropriate strategies to teach the alternative / replacement behavior(s.)
<b>6 – Develop Response Strategies</b>	Review all salient information on the FBA summary form, specifically problem analysis results, and the pattern documented under consequences in relation to the hypothesized function to develop appropriate response strategies that do not reinforce the behavior(s) of concern, and <i>do</i> prompt (as indicated by the FBA) and reinforce the replacement behavior.

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**7 – Develop  
Safety Plan**

If a safety plan is needed, define a crisis for the student, and identify actions to be taken based on the function of the student's behavior.

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**8 – Develop  
Monitoring Plan**

There are three potential areas for monitoring on the BIP:

- BIP student goal
- Alternative or replacement behavior / skills if different from the goal
- BIP implementation

This plan needs to include who will be responsible for an action, when it will be implemented, and the frequency of monitoring.

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**9 – Provide  
Results to  
Parents**

Provide a completed FBA summary form and the BIP to parents as part of the IEP.

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**10 – Inform All  
Responsible  
Parties**

Inform all individuals not in attendance at the IEP meeting of their responsibilities, if any, for implementing the BIP and IEP.

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**11 – Behavioral  
Intervention  
Plan**

Implement the developed behavioral intervention plan (BIP.)

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**12 – Monitor  
the Behavioral  
Intervention  
Plan**

Monitor the efficacy of the BIP.

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## Behavior and Discipline: Discipline

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### Overview

The administration of appropriate disciplinary procedures for students with disabilities provides significant challenges for school district administrators and staff members.

The issues surrounding the suspension of students are frequently complex and multiple factors must be considered. In general, students with IEPs are subject to the same code of conduct provisions as students without IEPs.

Discipline for students with IEPs may be different than for other students when:

- An IEP or BIP has provisions for responding to a student's behavior that are different than the code of conduct
- A disciplinary action constitutes a change in placement

It is important to note that disciplinary procedures are there to help protect all students and school personnel. Disciplinary procedures are not positive behavioral interventions and supports.

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# Step by Step

## Consideration #1

Did the incident requiring disciplinary action involve special circumstances (i.e., weapons, drugs, or serious bodily injury)?

IF YES

School may remove a student with a disability to an interim alternative setting, if special circumstances apply, for no more than 45 school days regardless of manifestation determination results. The school also must:

- 1) notify the parents of the decision to remove & provide the parents with a copy of the procedural safeguards notice on the date of the decision, and
- 2) continue to provide FAPE (Free Appropriate Public Education).
- 3) conduct a manifestation determination for guidance when student returns.

IF NO

## Consideration #2A

Do any of the proposed days of the suspension/expulsion result in more than 10 CONSECUTIVE days of suspension/expulsion for this student?

IF NO

## Consideration #2B

Do any of the proposed days, when added to other days, result in a cumulative number of suspension/expulsion days of 11 or more?

IF YES

IF NO

## Consideration #3

Was the behavior a manifestation of the student's disability? To answer, you must conduct a manifestation determination. A manifestation determination answers the questions (using relevant information in a student's file, including the IEP, observations, and parent information):

- 1) Was the behavior caused by, or have any direct and substantial relationship, to the student's disability?
- 2) Was the behavior caused by the school's failure to implement the IEP?

IF NO

IF YES

## Consideration #2C

Do the days in the cumulative total constitute a pattern? A pattern means the days occurred in the same school year, are a result of similar behaviors, and/or the length, total, and proximity of the suspensions are similar.

IF YES

IF NO

School may apply same discipline procedures used for all students.

School may apply same discipline procedures used for all students. Services outlined by the school must be provided.

## to BOTH questions

The behavior is **not** a manifestation of the student's disability.

- 1) The school can suspend or expel.
- 2) If considering an alternate setting, continue to provide services to allow the student to continue to participate in the general education curriculum and make progress on IEP goals. Consider a Functional Behavioral Assessment to create or modify an existing Behavior Intervention Plan.

## to EITHER question

The behavior is a manifestation of the student's disability.

- 1) The student stays in original placement or the IEP team decides that a change of placement should occur.
- 2) Conduct a Functional Behavioral Assessment to create or modify an existing Behavior Intervention Plan.

Rather than continue in short-term removals, consider review and revision of the BIP.

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**Disciplinary  
Actions Defined**

Disciplinary actions refer to specific procedures surrounding a removal (e.g., suspension, expulsion) of a child with a disability who violates a code of student conduct.

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**Disciplinary  
Removals**

When a change in placement is the result of the disciplinary actions (listed below) specific disciplinary procedures apply:

- Expulsion
    - The result of school board action resulting in the removal of a student from the rolls of a district (unless a student has an IEP and requires continuing services) for disciplinary reasons.
  - In-School Suspension
    - An Administrative removal of a student from regular classes or activities for disciplinary reasons to a setting where the student continues to remain under supervision of school personnel. Saturday school does not count as an in-school suspension.
  - Out-of-School Suspension
    - An administrative removal of a student from regular classes or activities for disciplinary reasons to another setting (e.g., home, behavior center). If the removal is for more than ten days school board action is required. Saturday school does not count as an out-of-school suspension.
- 

**When In-School  
Suspensions  
and other  
Disciplinary  
Actions Are Not  
Considered  
Removals**

In-School suspensions (and other disciplinary actions) are not considered removals if the answers to **all three** of the following questions are YES: [41.536(3)]

- Will the student be able to appropriately participate in the general education curriculum?
- Will the student be able to receive the services specified in the student's IEP?
- Will the student be able to participate with students without disabilities (see Note) to the extent provided in the student's current placement?

**NOTE:** In-school suspension meets the requirement of "able to participate with students without disabilities" if the in-school suspension setting is available to students with and without disabilities [41.51(8)]. If the in-school suspension setting is available to all students, then it constitutes the general education environment even if there are no students without disabilities currently there.

---

**When Do IDEA's  
Disciplinary  
Procedures  
Apply?**

The IDEA's disciplinary procedures [41.530] apply when a removal of a student constitutes a change in placement, which occurs when the student is removed: [41.536]

- For more than ten consecutive school days
  - For more than ten school days for separate incidents of behavior that constitute a pattern [41.536(1)]
-



<b>Notice to Parents of Disciplinary Change in Placement</b>	<p>On the date that schools decide to make a removal that is a change in placement, the school must:</p> <ul style="list-style-type: none"> <li>▪ Notify the child’s parents of this decision;</li> <li>▪ Give the parents a copy of the procedural safeguards notice [41.530(8)]</li> </ul>
<b>How to Determine if Removal Constitutes a Pattern</b>	<p>Determining that removal of a child constitutes a pattern is based on: [41.536(1)]</p> <ul style="list-style-type: none"> <li>▪ A series of removals of more than ten school days in a year</li> <li>▪ The behavior that caused the removal is substantially similar to the behavior that caused previous removals</li> <li>▪ Additional factors such as the length, time and proximity of the series of removals</li> </ul> <p>Schools determine whether a series of removals constitutes a change in placement; however, parents can challenge this determination through a due process and court review.</p>
<b>What happens if a series of removals is not a pattern</b>	<p>If a child is removed for more than ten cumulative school days in a year, but the removals do not constitute a change in placement (no pattern), then the school officials (after consulting at least one of the child’s teachers) determine what services are needed, if any, to enable the child to participate in the general education curriculum although in another setting and progress toward meeting the child’s IEP goals. [41.534(4)d]</p>
<b>Determine if the Ten-Day Rules Apply</b>	<p>To determine if the ten-day rules apply: [41.536]</p> <ul style="list-style-type: none"> <li>▪ If the removal is <i>more than ten consecutive</i> days, then a manifestation determination must be conducted</li> <li>▪ If the removal is <i>more than ten cumulative days that constitute a pattern</i>, then a manifestation determination must be conducted</li> <li>▪ If the removal is <i>more than ten cumulative days and does not constitute a pattern</i>, then the same disciplinary procedures used for all students may be applied, however some IEP services as outlined by the school must be provided</li> <li>▪ If the removal is <i>ten cumulative days or less</i>, then the same disciplinary procedures used for all students may be applied</li> </ul>

**Consider  
Supports**

The following should be considered for students with disabilities with behavioral concerns and / or facing disciplinary action for any number of days:

- Conducting a FBA
  - Designing a BIP
  - Determining placement for free appropriate public education (FAPE) and appropriate services to enable the student to continue to participate in general education and progress toward meeting IEP goals
  - Designing positive behavioral interventions and supports (PBIS) for students with disabilities whose behavior impedes his / her learning or the learning of others
-

## Discipline: Special Circumstances

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### Determine if Special Circumstances Apply

There are three special circumstances that allow school personnel to remove a student with disabilities to an interim alternative educational setting for no more than 45 school days regardless of the outcome of the manifestation determination.

On the date the decision is made that special circumstances apply, the school must notify the parents of the decision and provide parents the procedural safeguards notice.

---

### Three Circumstances that Allow Removal

The three special circumstances are if the student: [41.530(7)]

- Carries / possesses a weapon to or on school premises, as well as to or at school functions.
  - Possesses uses, sells or solicits the sale of a controlled substance or illegal drugs on school premises or at a school function.  
**Note:** Alcohol and tobacco violations of a school's code of conduct are not "special circumstances".
  - Inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.
- 

### Serious Bodily Injury Defined

Serious bodily injury is defined as bodily injury which involves:

- A substantial risk of death
- Extreme physical pain
- Protracted and obvious disfigurement
- Protracted loss of impairment of the function of a bodily member, organ, or mental faculty

Threats of serious bodily injury or attempted serious bodily injury do not constitute special circumstances. Bodily injury that is not serious (bruises, scrapes, marks) does not constitute special circumstances.

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### Interim Alternative Education Settings Defined

Interim Alternative Education Settings (IAES) are settings outside of the school. In this setting the child must receive the following: [41.530(4)]

- Educational services that enable the child to participate in the general education curriculum and progress toward meeting their IEP goals
  - As appropriate, a FBA and BIP that addresses the behavior(s) of concern
-

**When Special  
Circumstances  
Apply**

When special circumstances apply then the LEA:

- May remove a student to an interim alternative education setting for no more than 45 school days regardless of the outcome of a manifestation determination
  - Must notify the parents of the decision to remove and provide parents the procedural safeguards notice on the date the decision is made
  - Must conduct a manifestation determination
  - Must continue to provide free appropriate public education
  - May conduct or review a FBA for guidance when the student returns to his or her original placement.
- 

**When Special  
Circumstances  
Do Not Apply**

If special circumstances do not apply, the LEA must consider the length of time the student has been removed.

The consideration must be given to the currently proposed action to determine if it will result in removal from classes for more than ten days (including any removals prior to this one.)

- If the removal is less than ten days or the removal does not constitute a pattern, then no IEP team meeting is necessary. Standard school board policy governing suspension / expulsion for all students may be applied.
  - If the removal is more than ten days, or the removal constitutes a pattern, then the LEA must:
    - Provide notice to the parents and inform IEP team members of the meeting and its purpose;
    - Make certain that all relevant information is available. This may include information from:
      - The student's file
      - Child's IEP
      - Teacher interviews
      - Direct observation
      - Progress monitoring
      - Evaluation summary
      - FBA summary
-

# Discipline: Manifestation Determinations

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**Manifestation  
Determination  
Defined**

A manifestation determination is a procedure to determine if the behavior that precipitated removal that constitutes a change in placement is a manifestation of the student’s disabilities.

A determination should be made as to whether the behavior is an integral feature of the student’s disability.

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**When Should a  
Manifestation  
Determination  
be Completed?**

A manifestation determination may be completed at any time, however it must be completed when a student with disabilities faces disciplinary actions that would result in removal of a student for:

- More than ten consecutive days
- Any removal for up to 45 school days because of a special circumstance
- More than ten school days for separate incidents of behavior that constitute a pattern [41.536(1)]

A manifestation determination must be conducted within ten school days of a decision to change a child’s placement for violating a student code of conduct [41.530(5)]

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## Procedures for Completing a Manifestation Determination

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**Overview** To complete manifestation determination procedures, the LEA must do several things which are listed below. [41.530]

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**Review File** Within ten school days of any decision to change the placement of a student with an IEP because of a violation of student conduct, the AEA, LEA, parent and relevant members of the IEP team must review all relevant information in the student's file to determine if the conduct in question is a manifestation of the student's disability. [41.530(5)a]

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**Provide Notice to Parents** Provide notice to parents and inform IEP team members of the meeting and its purpose.

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**Gather All Relevant Information** Make certain that all relevant information is available. This includes: [41.530(5)]

- Indirect and direct assessment information
- Progress monitoring or evaluation information
- FBA summary
- Student's IEP
- Teacher observations
- Relevant information provided by parents

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**Answer Two Questions** In a full IEP team discussion of all relevant information, address the following questions: [41.530(5)]

- Was the behavior caused by or have any direct and substantial relationship to the child's disability?
- Was the behavior caused by the LEA's failure to implement the IEP?

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**Complete Determination** The requirements for the LEA are dependent on the answers provided to the questions.

If	Then
YES to either question	Indicates behavior is a manifestation of a student's disability
YES to question two	The LEA must take immediate steps to correct those deficiencies
NO to both questions	Behavior is not a manifestation of the student's ability

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<b>If Yes to Either Question</b>	<p>If YES to either question:</p> <ul style="list-style-type: none"> <li>▪ Conduct a FBA or review and revise an existing FBA to either design or to modify an existing BIP</li> <li>▪ Determine placement for FAPE which means: <ul style="list-style-type: none"> <li>○ Return the student to the placement from which the student has been removed and continue the services and supports specified in the IEP, or</li> <li>○ Review and revise the IEP to reflect changes in services, supports or placement</li> </ul> </li> </ul>
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<b>If No to Both Questions</b>	<p>If NO to both questions:</p> <ul style="list-style-type: none"> <li>▪ Implement disciplinary action</li> <li>▪ Determine interim alternative educational setting, which provides a FAPE</li> <li>▪ Conduct a FBA to design or modify an existing BIP, if warranted</li> </ul>
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<b>Determine Interim Alternative Educational Setting</b>	<p>Under special circumstances and when behavior is not a manifestation of the student's disability, the student may be removed to an IAES.</p> <p>The student's IEP team determines the IAES for all removals to an IAES (e.g., suspensions, expulsions, removals for special circumstances). [41.531]</p> <p>The availability of interim alternative educational settings varies from school district to school district. During alternative placements, students will receive instruction according to the goals and objectives in their IEPs.</p> <p>If the parents appeal, "stay put" is the interim alternative educational setting unless the parent and school agree otherwise. [41.533]</p>
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<b>Timing and Placement in an Interim Alternative Educational Setting</b>	<p>A student with a disability could be subjected to more than one placement in an interim alternative educational setting for up to 45 school days in a given school year. For example:</p> <ul style="list-style-type: none"> <li>▪ A student brings a weapon to school in the fall and is placed in an interim alternative educational setting for up to 45 days</li> <li>▪ The same student uses illegal drugs at school in the spring and is again placed in an interim alternative educational setting for up to 45 days</li> </ul> <p>NOTE: It is possible that a placement in an IAES for a special circumstance may carry over into the next school year</p>
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<b>Results</b>	<p>Results, including progress reports related to IEP goals and the status of student behavior should be provided to parents as part of the IEP process.</p>
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## Discipline: Hearings

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### Appeals

A parent or the LEA has a right to appeal any decision related to placement by requesting a hearing. A hearing may occur if: [41.532-41.534]

- The LEA believes that maintaining the current placement of the student is substantially likely to result in injury to that student or to others
  - The parent disagrees with any decision related to placement or the manifestation determination
- 

### Hearing Procedures

Procedures for hearings:

- The student must remain in the interim alternative educational setting during due process [41.533]
  - The state is responsible for arranging an expedited hearing which must occur within 20 school days of the hearing request [41.532(3)]
    - The administrative law judge (ALJ) must make a determination within ten school days after the hearing
    - Unless the parents or LEA waive the right to a resolution meeting or agree to use mediation, the process is:
      - Resolution meeting occurs within seven days of receiving the due process complaint
      - The hearing may proceed unless it has been resolved within 15 days of the receipt of the due process complaint
- 

### Hearing Results

An ALJ will hear and make a determination to do either of the following: [41.532(2)]

- Return the student to the school setting
  - Order a change of placement of the student to an appropriate interim alternative education setting for not more than 45 days
- 

### Students Without Disabilities May Have the Same Protections

A student who has not been determined eligible for special education and related services may assert the same protections provided students in special education if the LEA *had knowledge* that the student was a student with a disability before the behavior that precipitated the disciplinary action. [41.534(1)]

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### Establishing *Had Knowledge*

*Had Knowledge* is established if any of the following occurred prior to the behavior: [41.534(2)]

- The parent expressed concern in writing to a supervisory or administrative personnel or teacher that his or her child was in need of special education
  - The parent requested an evaluation of his or her child
  - The teacher or other personnel of the LEA expressed specific concerns about the pattern of behavior to the director of special education or other supervisory personnel of the agency
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**Three  
Exceptions to  
Had Knowledge**

There are two exceptions to *had knowledge*: [41.534(3)]

- The parent hasn't allowed an evaluation of his or her child
  - The student was evaluated and determined not to have a disability
  - The student's parents revoked consent for continued special education services [41.534(4)]
- 

**No Basis of  
Knowledge**

If it is determined that the LEA and AEA had no previous knowledge that the student had a disability prior to the behavior that precipitated the disciplinary action, the student may be subjected to the disciplinary measures applied to students without disabilities who engage in comparable behaviors.

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**Request for  
Evaluation**

However, if during the time period the student is subjected to the disciplinary measures there is a request for an evaluation, the evaluation must be conducted in an expedited manner: [41.534(4)b]

- Until the evaluation is completed, the student remains in the educational placement that has been determined by school authorities which can include suspension or expulsion without educational services
  - If it is determined through the evaluation procedure that the student is eligible for special education services, special education and related services must then be provided
- 

**Reporting  
Crimes  
Committed by a  
Student with  
Disabilities**

Nothing in Part B prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities, or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law. [41.535]

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**Transmittal of  
Records**

An agency reporting a crime committed by a child with a disability must ensure that copies of the special education disciplinary records for the child are transmitted for consideration by the appropriate authorities to whatever agency reports the crime. [41.535(2)]

An agency reporting a crime under this rule may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act (FERPA).

FERPA allows for transmittal of records with parent or eligible student consent. FERPA also allows transmittal of records in certain situations without consent, such as health and safety emergencies or court orders or subpoenas.

For more information, contact the federal office that administers FERPA:  
<http://www.ed.gov/policy/gen/guid/fpco/index.html>

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# Unique Placements

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**Provide a  
Continuum of  
Services**

It is the duty of each public agency to ensure that a continuum of alternative services and placements is available to meet the needs of children with disabilities for special education and related services. [41.115(1)]

In addition to regular classes and special classes, the continuum must include:

- Special schools
  - Home instruction
  - Instruction in hospitals and institutions [41.115(2)]
- 

**Changing the  
IEP Due to  
Student  
Placement  
Changes**

When circumstances arise that create the need for a student to be moved into a placement outside the regular school environment, there is almost always a need to make changes to the existing IEP.

Procedures for reviewing or amending IEPs should be followed. If a child was not identified as an eligible individual prior to the need for education in one of these restrictive settings, a determination must be made as to whether considering eligibility for special education is appropriate. If special education eligibility is a consideration, all of the appropriate child find procedures must be followed.

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## Contracts and Billing for Non-Resident Special Education Services

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### **Contracts for Services to Nonresident Students**

A contract or agreement must be in place between the resident district or AEA of the student and the AEA or district providing that student's special education program. These contracts must be for the actual costs of providing those special education services.

Each agency contracting with other agencies to provide special education and related services for individuals or groups of individuals shall maintain responsibility for individuals receiving such special education and related services by:

- a. Ensuring that all the requirements related to the development of each eligible individual's IEP are met.
- b. Requiring and reviewing periodic progress reports to ensure the adequacy and appropriateness of the special education and related services provided.
- c. Conditioning payments on delivery of special education and related services in accordance with the eligible individual's IEP and in compliance with these rules.

[41.903]

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### **Actual Costs**

Accounting for the costs for special education is based on the dollars actually expended not on an estimate.

The Code of Iowa requires that when billing for nonresident students, the billing is to be actual costs.

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### **Children in Unique Placements Must be Provided Education**

If a student requiring special education is living in a licensed foster care, residential treatment, or other such type of facility, the LEA in which the facility is located must provide special education if the facility does not maintain a school.

The school district in which the facility is located may contract with the facility to provide the educational program. This is the decision of the district. A facility does not have the authority to provide an educational program unless contracted by the district to do so.

School districts in which a residential treatment facility is located are responsible for the provision of education services to students residing in the unit or institution. [41.907(5)]

Students (both those requiring special education services and those not requiring special education services) residing in the unit or institution shall be included in the basic enrollment of their districts of residence.

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**A Student's  
Resident District  
Must Pay for  
Services**

The student's resident district shall pay to the school district in which the facility is located, for the provision of educational services to the student.

The resident district will pay a portion of the district cost per pupil based upon the proportion of time each student is provided educational services while in the facility, compared to the total time for which the child is provided educational services during a normal school year, e.g., 1/180<sup>th</sup> for each instructional day.

The actual special education instructional costs incurred are paid by the student's resident district to the district in which the facility or home is located. Billing to resident districts or AEAs for special education costs shall be based on the actual cost of providing the services, not on a per diem according to the funds being generated. [41.907(2)]

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**Special  
Circumstances  
and Who Pays  
for Services**

In cases where a student's district of residence cannot be determined, or a student has been placed by the district court and parental rights have been terminated the following procedures should be followed.

If these students are not included in the weighted enrollment of any LEA in the state, the LEA in which the facility is located may certify the costs to the director of education by August 1<sup>st</sup> of each year for the preceding fiscal year. Payment shall be made from the general fund of the state. [41.907(5)(6)]

In addition, there shall be a contract in place between the resident district and the district in which the facility is located for the provision of special education services. Any special education instructional program not provided directly by an LEA or any special education support service not provided by an AEA can only be provided through a contractual agreement. [41.903(1)]

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**Students  
Previously  
Requiring  
Special  
Education**

If a student enters a facility and has previously been identified as requiring special education services, he or she may continue to receive that program in the facility.

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**When Can  
Special  
Education  
Services Start in  
the New  
Facility?**

The special education program shall not begin for a student until the facility has received a current IEP from the resident district or previous attending district or facility. Upon receipt of the IEP, the new facility must "provide FAPE to the child including services comparable to those described in the child's IEP from the previous public agency until the new public agency either:

- a. Adopts the child's IEP from the previous public agency; or
- b. Develops, adopts, and implements a new IEP" [41.323(5)]

Therefore, billing of special education costs cannot begin until receipt of the current IEP or development of a new IEP.

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**Cost  
Responsibilities  
for Out-of-State  
Students**

If a student from another state is placed in a foster care facility in Iowa, the costs for the educational services provided to both general education and special education students are billed back to the student's home district in the other state.

This placement is facilitated through the existence of an Interstate Compact for Juveniles between Iowa and other states.

The billing procedures for the costs of providing educational services to out-of-state students shall be performed or supervised by the district responsible for providing the program.

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**LEAs and AEAs  
in Contract with  
Other Agencies  
to Maintain  
Responsibility**

Any LEA or AEA that contracts with other agencies to provide special education and related services for students maintains responsibility for those students by:  
[41.903(2)]

- Ensuring that all the requirements related to the development of each student's IEP are met
- Requiring and reviewing periodic progress reports to ensure the adequacy and appropriateness of the special education and related services provided
- Conditioning payments on delivery of special education and related services in accordance with the IEP and in compliance with all rules and regulations such as minimum length of school day, pupil-teacher ratios, and appropriately licensed teachers.

The district providing the program is responsible for assuring that there is a contract in place and for the submission of timely invoices to the sending district.

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## Placement in Special Schools and Other State Institutions

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### **Placement at No Cost to the Parent**

If placement in a public or private residential program is necessary to provide special education and related services to an eligible individual, the program, including nonmedical care and room and board, must be at no cost to the parents of the child. [41.104]

Students placed into state institutions will generally attend the educational programs sponsored by these institutions. The educational costs are typically paid from state appropriations to the sponsoring institution.

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### **LEA Responsibilities**

It is the responsibility of each eligible individual's resident LEA to provide or make provision for appropriate special education services that meet all the requirements of state and federal rules and laws.

The AEA shall support and assist LEAs in meeting their responsibilities for providing appropriate special education and related services. [ 41.400(1)]

---

### **Shared Responsibilities of LEAs and AEAs**

Special schools for eligible individuals who require special education outside the general education environment may be maintained by:

- Individual LEAs
- Jointly by two or more AEAs
- The state directly
- Private providers [41.176.(1)]

Responsibility for assuring the appropriate program in the least restrictive environment for students placed in residential institutions remains with the resident LEA and AEA. They should be involved in IEP meetings for students prior to placement in state institutions and continue to be involved in IEP meetings as long as the student is a resident of the district. [41.114]

AEAs are responsible for maintaining lists of all students with disabilities, including those in state institutions, to be included in the annual report of children served. [41.644]

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### **List of State Institutions**

- Cherokee Mental Health Institute
  - Eldora Training School for Boys
  - Glenwood State Hospital
  - Iowa Braille and Sight Saving School
  - Independence Mental Health Institute
  - Iowa School for the Deaf
  - Toledo Juvenile Home
  - University of Iowa Child Psychiatry
-

## Placement in Adult Correctional Facilities

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### **Legal Requirements for Special Education in Adult Corrections**

Eligible students adjudicated to adult correctional facilities will receive special education services that meet applicable rules and laws of federal and state laws and rules. [(41.2(1)d]

Requirements of special education that do not apply to adult corrections are:

- Those relating to participation in general assessments [41.320(1)“g”]
  - Those requirements relating to transition planning and transition services [41.320(2)]
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### **Modifications to the IEP**

Modifications to the IEP or placement of an incarcerated individual may be made by the team if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. [41.324(4)]

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### **Payment for Special Education in Correctional Facilities**

Students served in a correctional facility are to be added to the resident district’s special education count. The resident district will pay for services for the student while incarcerated.

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### **Adult Correctional Facilities List**

Iowa adult correctional facilities include :

- Clarinda Correctional Facility
  - Iowa Correctional Institution for Women
  - Iowa Medical and Classification Center
  - North Central Correctional Facility
  - Mt. Pleasant Correctional Facility
  - Anamosa State Penitentiary
  - Iowa State Penitentiary
  - Newton Correctional Facility
  - Fort Dodge Correctional Facility
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## Placement in Hospitals, Home Instruction, and Jail

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### **Continuum of Education Placements Include Home, Hospital, and Institution Instruction**

The continuum of educational placements includes “home instruction, and instruction in hospitals and institutions.” “Institutions” includes correctional institutions. [41.115(2)]

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### **LEA and AEA Financial Roles in Instructional Services**

In general (see important exceptions below) when an eligible individual requires instructional services in a setting outside of the school, the LEA where the student is being educated is responsible to provide or make arrangements for the provision of that instruction.

The resident LEA is financially responsible for that instruction.

The AEA where the student is being educated is responsible for any support services that are needed for an eligible individual who receives his or her instruction outside of the school. An inter-AEA agreement guides the determination of financial responsibility for AEAs. [41.907]

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### **LEA and AEA Financial Roles in Hospital Settings**

Iowa LEAs that have a hospital psychiatric unit within their district are required by Iowa Code [282.27] to provide instructional services. The LEAs whose students are served in those units are required to pay for those services.

Also, some hospitals routinely provide educational and related services to all school-age patients, both special and general education students, and bill the resident district or AEA. In these circumstances, the resident LEA or AEA shall pay for the services delivered in the hospital setting.

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### **LEA and AEA Financial Roles in Jail Settings**

Eligible individuals who are incarcerated in jails are the instructional responsibility of the LEA. The LEA in which the jail is located is responsible for assuring that the eligible individual receives instruction. The resident LEA is financially responsible for that instruction.

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### **Financial Exceptions**

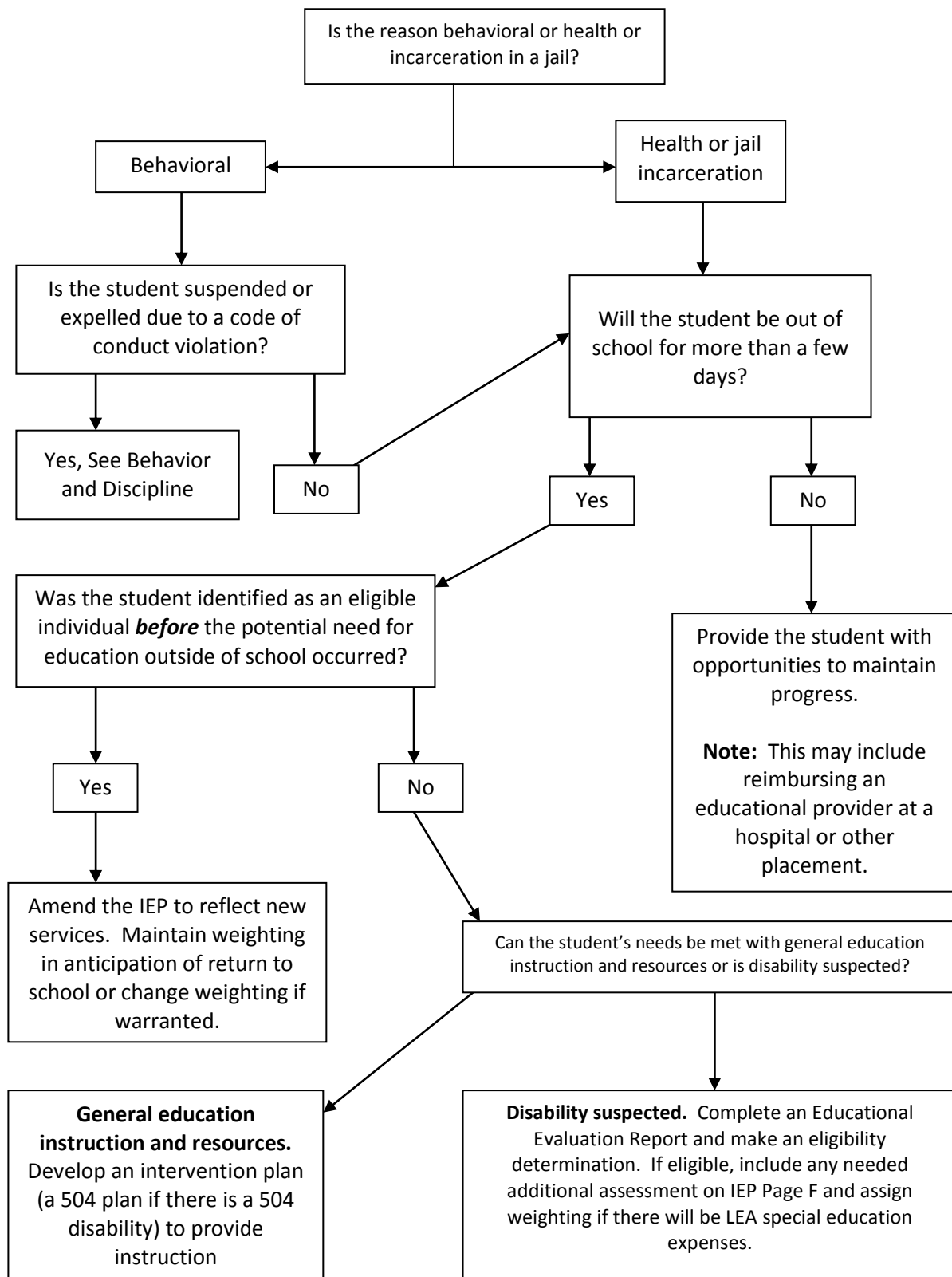
An AEA in which certain institutions are located is responsible for providing or making provision for the instruction of eligible individuals who reside in those facilities. Those facilities are:

- Juvenile detention homes
- Licensed shelter care homes
- Adult prisons (AEAs are responsible for special education, only, in prisons)



## Hospital-Homebound-Jail Decision Making (Not Adult Prison)

(When a student may require education outside of school)



## Home and Hospital Services

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### Special Education Must be Provided for Those Unable to Attend Schools and Related Facilities

“Special education shall be provided to eligible individuals whose condition precludes their participation in the general and special education provided in schools or related facilities.” [41.410(2)]

*A condition that precludes participation in general and special education is a physical or mental health or medical condition. Behavior, alone, is not a condition that precludes participation. See Homebound Placements for Behavior Reasons, below.*

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### Who Provides the Services for those Unable to Attend Schools and Related Facilities?

Ordinarily, instructional services shall be provided by the LEA but may be provided by a contractual agreement, subject to the approval of the LEA board, by the AEA or another qualified agency. The AEA shall provide any necessary support or related services to a homebound or hospitalized student; but through AEA board approval may contract with another qualified agency to provide these services. [41.410(2)]

---

### Procedures Concerning Home and Hospital Services

Procedures that must be in place for home and hospital services:

- The IEP must specify the service and the location of the service [41.410(2)a]
- The status of a student receiving these services must be periodically reviewed to substantiate the continuing need for the appropriateness of the service [41.410(2)b]
- All procedural safeguards must be afforded individual receiving these services [41.410(2)c]
  - For example – the need for the services must be determined at a meeting to develop or revise an IEP and parents must give consent for or be given notice, as appropriate. If a review IEP or amendment IEP initiates home or hospital services, an IEP review or amendment must also occur at the end of home services or when the student returns to school. The IEP team must review the need for home or hospital services for medical reasons at least annually [41.410(2)c]

**Note:** IEP teams may want to request a physician’s written statement to determine that the student’s condition is such that he or she cannot attend school and that the home or hospital service will not interfere with the student’s health or recovery. The prognosis should indicate that the student will be out of school for more than a few days. The team should keep in mind that failing to serve a student whose condition does not preclude instruction or other services for more than 10 days would be considered a change in placement.

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## Homebound Placements for Behavioral Reasons

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### Placing Individuals on Homebound Instruction Due to Behavioral Issues

An IEP team may make a decision to place an eligible individual on homebound instruction due to extreme behavioral issues when a temporary placement as part of an evaluation process is needed.

In making a temporary placement, IEP teams need to be quite certain that the home is 1) an appropriate educational setting, and 2) the placement assists in the completion of the evaluation process.

A home placement for behavior reasons **must not** circumvent appropriate safeguards related to student discipline. A home placement for behavior reasons may not be used in lieu of establishing an appropriate school program for a student. Districts have an obligation to provide the appropriate instructional program for students with behavior disabilities. The IEP must be implemented by appropriately licensed staff.

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### When is Homebound Instruction Really Appropriate?

Homebound instruction, even when temporary and used for an evaluation purpose, is rarely the best solution. Too often this leaves the student with little supervision and no appropriate peers to model appropriate behavior. In addition, homebound instruction has limited worth in working toward improved behavior in a school setting.

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### Interim IEPs and Temporary Homebound Instruction for Behavioral Reasons

When an IEP is written that places a student on homebound instruction for behavioral reasons, this is considered to be an interim IEP. This type of placement is designed to be a temporary placement as part of a continuing evaluation process before a new IEP is developed, and to aid in determining the appropriate services for the individual.

An interim IEP shall not be in place for more than 30 school days. [41.324(5)a]

An interim IEP may be replaced by another interim if the purpose (completing an evaluation, gathering additional information, obtaining records from a previous school or service provider, etc.) for which an interim was originally written has not been accomplished within 30 school days. However, IEP teams must keep in mind that the *Rules* also state:

“It is essential that the temporary provision of service not become the final special education for the individual before the IEP is finalized.” [41.324(5)]

Clearly, interim IEPs are intended to serve a temporary purpose. While it is possible to replace one interim IEP with another, this should be a very uncommon occurrence.

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## Shelter or Detention Facilities

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### **AEA Responsibilities Concerning Facilities**

An AEA shall provide or make provision for an appropriate educational program for each child living in the following types of facilities located within its boundaries:

- An approved or licensed shelter care home
- An approved juvenile detention home

The provision of the educational program shall be pursuant to a written agreement which identifies the responsibilities of the AEA, juvenile home, and any other agency with which the AEA contracts to provide the educational program. [63.5(282)]

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### **AEA Responsibilities Concerning Policies and Procedures**

AEAs are required to establish policies and procedures for screening and evaluating students who may require special education services within shelter and detention facilities.

It is the responsibility of the AEA to ensure that all procedures related to:

- Due process
- Protection in evaluation
- Least restrictive environment (LRE)
- Development of the IEP
- All other requirements of Chapter 41

are adhered to for students provided special education in shelter or detention facilities.

Additionally, the activities of the special education program must be coordinated with other programs and services provided. [63.7(282)]

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### **AEA Assignment of Support Service Professionals**

Appropriate support service professionals shall be assigned by the AEA in which the program is located. The AEA professionals shall have the necessary qualifications to:

- Identify students for whom a disability is suspected
  - Assist in the completion full and individual initial evaluations and reevaluations
  - Assist in IEP development
  - Assist in the implementation of needed special education programs
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## Out-of-State Placement

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### **When to Proceed with Out-of-State Placement**

If any agency or school district in Iowa has an appropriate educational program and is located nearer to an eligible individual's residence than an out-of-state placement that district or agency must be given first consideration.

When appropriate services are not available within the state, or when services in an adjoining state are nearer than those available in Iowa, the director may certify an eligible individual for appropriate special education and related services outside the state.

A placement may be made only when it has been determined by the department that the special education and related services meet the standards set forth in the Iowa Rules of Special Education. 41.116(5)

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### **Payment for Out-of-State Placement**

Funds generated through the weighting plan for special education instructional services can be used to provide special education instruction in out-of-state placements. However, itinerant instructional services and special education consultant services shall utilize special education support service funds for out-of-state placements. [41.907(7)]

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### **LEA and AEA Responsibilities**

It is the responsibility of the AEA and LEA to establish procedures for participation in the development of the individual's IEP in an out-of-state placement, and to prepare for the individual's transition back to the LEA before he or she is placed out of state. [41.404(2)]

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### **Procedures for Determining Out-of-State Placement**

Procedures for determining out-of-state placement:

- An IEP review meeting must be held to determine the need for an out-of-state placement. This need must be based on appropriate data to support the IEP team's decision.
  - A *Prior Written Notice* form is required to consider the change of placement. Educational options within the state must be explored and discussed at the meeting and determined inappropriate.
  - The following must be forwarded to the AEA Director of Special Education for approval
    - Completed IEP
    - The Request for Department of Education Approval and the Addendum
    - A plan on how the student will be prepared to transition back to the LEA must be forwarded to the AEA Director of Special Education for approval. The LEA will continue to be involved in any IEP decisions. The LEA should notify the out-of-state placement of this request.
  - The AEA Director of Special Education will then request out-of-state approval from the Bureau of Student and Family Support Services at the Department of Education
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**Procedures for  
Requesting  
Approval of  
Funds for  
Students Placed  
Out-of-State**

Contracts negotiated with out-of-state agencies for the provision of special education services require Iowa Department of Education approval. [41.116(6)]

To secure approval and arrange for educational costs to be paid by a local school district for a student identified as needing a special education program placement outside the state of Iowa, the following procedures will be followed:

- The referring local district or agency (County Juvenile Court or County Department of Human Service) will send a copy of the court order, if available, for court ordered placements to the Director of Special Education of the local AEA.
- Forms from the Iowa Department of Education requesting out-of-state approval are signed by the AEA Director of Special Education and the local school district's superintendent or designee and forwarded to the Iowa Department of Education
- After the Iowa Department of Education review, a letter will be sent to the AEA Director of Special Education with a decision to approve or not approve the request following their investigation of the proposed placement. [41.116(6)a]

An AEA designee will forward the copies of the approval letter to the local school district's superintendent, and send a letter to the initial referring agency notifying the agency of their decision.

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**Out-of-State  
Procedures**

When the eligible student is in the out-of-state placement, the following procedures are required:

- Ongoing follow-up of the student's IEP progress, which includes progress monitoring reports that will be documented and maintained in the student's LEA file
  - Participation in IEP meetings via telephone conferencing, video conferencing, or physical presence by LEA staff and/or AEA staff. Resident district representatives must be invited to all IEP meetings
  - Documentation of an annual IEP review and copies of the current IEP maintained in the resident district files
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# Competent Private Instruction (Home Schooling)

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Overview	<p>All students who are of compulsory attendance age must be enrolled in a recognized educational program.</p> <p>Compulsory attendance age requirements apply to students who are 6 years of age by September 15th and those who are not 16 years of age by September 15th of a school year. Students whose birthday is after September 15 and who turn 16 years of age must complete the current year of school to meet compulsory attendance requirements.</p> <p>The Iowa Compulsory Attendance law (Iowa Code Chapter 299) allows for competent private instruction.</p>
Definition	<p>Competent Private Instruction (CPI), commonly known as home schooling, is defined as private instruction provided on a daily basis for at least 148 days during the school year.</p> <p>Competent private instruction means instruction using a plan and a course of study in a setting other than a public or organized accredited nonpublic school.</p> <p>CPI includes both home schooled students and those in other private non-accredited “schools” or settings. CPI includes the provision of education services by a parent, guardian, or legal custodian of the child being instructed. The provider of competent private instruction is not required to be licensed or formally trained.</p>
Qualifying to Provide CPI	<p>A Competent Private Instruction Report (Form A) must be completed in order to indicate that a parent, guardian, or legal custodian has chosen to provide CPI for a student.</p> <p>This form is available from local school districts and must be returned to the district once completed. Form A must be completed and returned by August 26 or 14 calendar days after the student is removed from the Iowa accredited public or nonpublic school. <b>Note</b>, however, if a child has been identified as requiring special education programs or services, <b>prior</b> written approval must be obtained from the special education director of the AEA in which the child resides <b>before</b> the child may be home schooled or enrolled in a non-accredited nonpublic “school.”</p> <p>Form A timelines relate to school district needs for accurate enrollment information.</p>

---

**Assessment Requirements**

If the child is working with an Iowa licensed teacher who has a license that is appropriate for the age and grade of the student, there is not an annual assessment requirement. In this circumstance, the teacher is responsible for monitoring the student's progress.

If the student is not working with an Iowa licensed teacher and is at least seven years of age and has not yet reached age 16 by September 15th of the current school year, the student must take an annual assessment. The student must take a standardized test to set a baseline of performance the first year. After the first year, the student must continue to take a standardized test or the parents or other instructional providers must develop a portfolio to show progress.

Students through grade five must be assessed in reading, language arts, and math. Students in grades 6-12 must also be assessed in science and social studies. Each year, adequate progress in academic skills must be made. For students working with an Iowa licensed teacher or developing a portfolio, the teacher or evaluator must determine that adequate progress is being made. If the student takes a standardized assessment, his/her scores must be above the 30<sup>th</sup> percentile and make six months progress from the previous evaluation results or must be at or above grade level for the student's age. (Iowa Code 299 A.6)

---

**Dual Enrollment**

Parents who choose CPI for their student may seek dual enrollment at a public school.

If a student is dual enrolled, he or she is eligible to enroll in academic and/or extracurricular activities at the public school of residence.

Dual enrollment may include the option of enrollment at the public school in order to receive special education instructional and/or support services. Districts may set a policy on the number of courses in which a student may dually enroll. A student may not enroll at the public school in all but one course. In other words, students may not use CPI to opt out of completing a specific course in the public school.

The special education weighting of an eligible individual who is dual enrolled for special education services is determined in the same manner as for other students.

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# Approval for Competent Private Instruction for those Requiring Special Education

[281-31.9]

These rules are intended to implement Iowa Code chapters 299 (attendance & truancy) and 299A (private instruction)

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## Overview

When a child has been identified as currently requiring special education, the child is eligible to receive competent private instruction with the written approval of the director of special education of the area education agency of the child's district of residence.

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## Written Decision

The director of special education of each area education agency shall issue a written decision:

- Approving
- Conditioning approval on modification of the proposed program
- Denying approval

This decision will be based upon the appropriateness of the proposed competent private instruction program for the child requiring special education considering the child's individual disability.

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## When to Request Approval

The request for approval for placement under Competent Private Instruction by the parent or guardian may be presented to the special education director at any time during the calendar year.

If the special education director denies approval or if no written decision has been rendered within 30 calendar days, that decision or the absence of a decision is subject to review by an impartial administrative law judge.

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## Not Approved

If a parent, guardian, or legal custodian of a child requiring special education provides private instruction without the approval of the director of special education, the director may do one of two things. Either request an impartial hearing before an administrative law judge under the rules of special education, or notify the secretary of the child's district of residence for referral of the matter to the county attorney pursuant to Iowa Code section 256B.6, incorporating chapter 299.

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**State and  
Federal Law**

A program of competent private instruction provided to a student requiring special education is not a program of special education for purposes of federal and state law.

The director of special education shall advise the parent, guardian, or legal custodian of a child of the probable consequences of placing the child under private instruction and withdrawing the child from specialized instruction and services to which the child is entitled.

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**Parent  
Decisions**

The director of special education may require the parent, guardian, or legal custodian of a child to accept full responsibility their decision to reject special education programs and services, forgoing a later request for compensatory education for the period of time when the child was under private instruction.

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*These rules are intended to implement Iowa Code chapters 299 (attendance and truancy) and 299A (private instruction.)*

## Options for Parents Interested in Competent Private Instruction (CPI)

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### Overview

When the parents of an eligible individual express an interest in providing competent private instruction for their child, LEA and AEA professionals will seek to clarify the reason that the parents are considering CPI. If the reason includes dissatisfaction with the educational program, generally, or IEP services, specifically, LEA and AEA professionals should make an effort to resolve the issues raised by the parents. Failing to resolve issues, LEA and AEA professionals should work to assure that parents have a full understanding of the opportunities available through dual enrollment and, if the district offers one, a home school assistance program (HSAP).

If the parents decide to pursue CPI, the LEA or AEA (for support-only IEPs) may offer a meeting with relevant members of the IEP team to assist the parent to develop the CPI-required instructional program in a manner that will address their child's special needs and develop an IEP if the parents seek dual enrollment for special education.

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### Dual Enrollment

The first option for parents is dual enrollment.

Dual enrollment with all special education services continued or continued with only minor changes (e.g., changes in scheduling or location).

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### Dual Enrollment with Changes

The second option for parents is dual enrollment with changes.

Dual enrollment with all special education services continued, but with significant (e.g., amount of service or nature of the service) changes.

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### Dual Enrollment with Minor Changes

The third option for parents is dual enrollment with minor changes.

Dual enrollment with some, but not all special education services continued.

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### What to do to Participate in One of the Above Three Options

The above three options include continued special education services. For these options:

- Parent completes and submits a Competent Private Instruction report (Form A, front and back)
- Parent completes and submits a course of study
- An IEP for CPI is developed at a meeting or through an amendment without a meeting
- A Prior Written Notice of any IEP changes, pending approval of CPI, is developed
- The documentation above **and** IEP team input and recommendation (the *Competent Private Instruction Worksheet* may be used for this purpose) is

submitted to the Director or designee

- The Director or designee provides the parents a letter of notification of his or her determination

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**Dual Enrollment  
with No Special  
Education  
Services**

The fourth option for parents is dual enrollment without special education services.

Dual enrollment for a student eligible for special education services whose parent has chosen only general education/extracurricular activities.

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**No Dual  
Enrollment**

The fifth option for parents is no dual enrollment.

No dual enrollment and no school involvement provided by the LEA or the AEA.

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**What to do to  
Participate in  
One of the  
Above Two  
Options**

The above two options do not include continued special education services. For these options:

- Parent completes and submits a Competent Private Instruction report (Form A, front and back)
  - Parent completes and submits a course of study
  - The documentation above **and** IEP team input and recommendation (the *Competent Private Instruction Worksheet* may be used for this purpose) is submitted to the Director or designee
  - Parent letter of notification from the Director or designee
-

# Responding to Requests for Competent Private Instruction (CPI)

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**Director or Designee Response When Receiving a Request for CPI** Upon receipt of a request for competent private instruction for an eligible individual, the Director or designee will review the instructional program submitted by the parents with Form A and seek information regarding the eligible individual and his or her needs from LEA and AEA professionals. The *Competent Private Instruction Worksheet* may be used for this purpose.

In determining whether to approve or conditionally approve CPI, the director or designee will consider:

- How intensive are the individual’s special education services?
- How unique are the individual’s needs (i.e., would the parents have the requisite skills to meet this individual’s needs?)
- Will the individual be dual-enrolled for all or some of their general education instruction or special education services?
- Will the individual be enrolled in a HSAP?
- Will the CPI be provided by or overseen by a licensed teacher or a licensed special education teacher?

---

**Notifying Parents of Decisions** The Director or designee must provide notice of his or her decision in writing and notice of the probable consequences of placing an eligible individual under CPI.

A model letter and enclosure may be found below. The model letter also informs the parents that their child would continue to be an eligible individual and special education needs would be considered if the CPI ends or dual enrollment for special education is later sought.

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## Competent Private Instruction Worksheet

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Student's Name: \_\_\_\_\_

DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_

Parent's Name: \_\_\_\_\_

Grade Level: \_\_\_\_\_

Address: \_\_\_\_\_  
(Street) (City or Town) (Zip)

Home Telephone: \_\_\_\_\_

School District & Building: \_\_\_\_\_

Cell/Work Phone: \_\_\_\_\_

This student's parents wish to provide competent private instruction for this eligible individual.

Current services (check one or both):

☐ District instructional services

☐ AEA support services

Please indicate the parents' preferred option and attach the appropriate documentation:

☐ **Option #1:** Dual enrollment with **all** special education services continued or continued with only minor changes (e.g., scheduling or location of service).

- Completed Competent Private Instruction report (Form A, front and back).
- Course of study provided by the parent.
- Documentation of an IEP meeting or an amendment without a meeting that describes any changes to the IEP.
- Prior Written Notice of any changes, pending CPI approval.

☐ **Option #2:** Dual enrollment with **all** special education services continued, but with significant (e.g., amount of service or nature of the service) changes.

- Completed Competent Private Instruction report (Form A, front and back).
- Course of study provided by the parent.
- Documentation of an IEP meeting or an amendment without a meeting that describes any changes to the IEP.
- Prior Written Notice of any changes, pending CPI approval.

☐ **Option #3:** Dual enrollment with **some, but not all** special education services continued.

- Completed Competent Private Instruction report (Form A, front and back).
- Course of study provided by the parent.
- Documentation of an IEP meeting or an amendment without a meeting that describes any changes to the IEP.
- Prior Written Notice of any changes, pending CPI approval.

☐ **Option #4:** Dual enrollment for a student eligible for special education services whose parent has chosen only general education/extracurricular activities.

- Completed Competent Private Instruction report (Form A, front and back).
- Course of study provided by the parent.

☐ **Option #5:** No dual enrollment and no school involvement provided by the LEA or the AEA.

- Completed Competent Private Instruction report (Form A, front and back).
- Course of study provided by the parent.

Comments (attach additional information, if necessary):

Submitted to the Director of Special Education or designee by: \_\_\_\_\_

## Model Approval Letter

Dear :

I have received your request to provide competent private instruction (home schooling) to your child, <Student Full Name>. Iowa Code states "A child of compulsory attendance age who is identified as requiring special education under chapter 256B is eligible for placement under competent private instruction with prior approval of the placement by the director of special education of the area education agency of the child's district of residence."

Please accept this letter as my approval of competent private instruction for <Student First Name>. Please note that my approval is needed in addition to meeting other requirements of competent private instruction (home schooling). A summary of parent responsibilities is included with this letter.

<Student First Name> continues to be eligible for special education services and <he/she> may continue to receive all or some of these services through dual enrollment. If <Student First Name> returns to school, <his/her> special education needs will be considered by an IEP team.

Your decision to home school is an important one and a significant one for <Student First Name>. When a student with a disability is provided home schooling, it is possible that his or her special needs may not be met. I strongly encourage you to <dual enroll/continue to dual enroll/enroll in the district's Home School Assistance Program> to assure that <Student First Name>'s needs are met.

Please contact me if you have any questions.

Sincerely,

<Director or designee name>

Enc.

## Parent, Guardian, or Legal or Actual Custodian Responsibilities

- 1) Parent, guardian, or legal or actual custodian must submit Form A to the district of residence for each child by **August 26**, or within 14 days of removing the child from school, or within 14 days of moving into the district. Proof of immunization\* is also required of all children receiving CPI, including those enrolled in a HSAP. If a child requires special education services, the Director of Special Education at the AEA must pre-approve CPI for the child. 281-IAC 31.2(1)
- 2) If a parent, guardian, or legal or actual custodian desires dual enrollment for a child, they must let district of residence know by September 15th (a district may decide on its own to extend this deadline). The only exception is for parents, guardians, or legal, or actual custodians who moved into the district or removed from school after September 15th. If the parents, guardians, or legal or actual custodians moved or removed the child from school after September 15th, they will have 14 calendar days to request dual enrollment. **It is important for families to know that the deadline is imposed for funding purposes, and that actually waiting to sign up for dual enrollment close to the deadline may mean that a desired class is full. Families are urged to let districts know as soon as practical if they want the dual enrollment option.**
- 3) Teach the children themselves or obtain an appropriately licensed Iowa teacher to teach or supervise. [281-IAC 31.2(1)]
- 4) If the parent, guardian, or legal or actual custodian is teaching the child and is not an Iowa licensed teacher or working with an Iowa licensed teacher and the child is between the ages of 7 and 15, inclusive, he/she must arrange baseline evaluation the first year and an annual assessment each subsequent year. The parent, guardian, or legal or actual custodian may select standardized testing, portfolio assessment, or submittal of a report card from an accredited correspondence school for purposes of fulfilling the baseline evaluation and annual assessment requirements of the law. This assessment will need to be taken by May 1 of each year. The local public school will contact parents, guardians, or legal or actual custodians of testing dates and times. A list of acceptable annual assessments is listed in the Competent Private Instruction Handbook. 281-IAC 31.8(1)
- 5) Parents, guardians, or legal or actual custodians must send a written request to the Department of Education if the family would like the child to take a standardized test other than one of those listed in this document. 281-IAC 31.8 (2)
- 6) If filing Form A for the 1st time, attach immunization information. (Proof of immunization is required of all children receiving CPI, including those enrolled in a HSAP)
- 7) If open enrollment is desired, the family must file the proper documents with the resident district. The deadline is March 1st. Please contact your resident district for forms.

The Competent Private Instruction Handbook is available at:

[http://www.iowa.gov/educate/index.php?option=com\\_content&task=view&id=301&Itemid=1335](http://www.iowa.gov/educate/index.php?option=com_content&task=view&id=301&Itemid=1335)



## Role of Parents in Special Education

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### Overview

The important role of parents in the education of children with disabilities has been long recognized in the laws that govern education and in the practices of schools and area education agencies. IDEA 2004 states:

*“Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home.”*

A partnership among the parents, local school, and the AEA is the foundation for student success. Iowa’s LEAs and AEAs encourage and support parent participation at the first indication of a concern and believe that parents are an integral part of groups that address student concerns. Therefore, efforts are made to ensure parent involvement in all phases of the educational process and for eligible individuals, the IEP process.

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## Determining and Defining “Parent”

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### Determining Who Serves in the Parent Role

All critical special education processes require someone to serve in the role of a “parent.”

This is to assure that the unique and extensive knowledge about a child that parents possess enhances the planning and delivery of educational services and that the authority held by parents as their child’s guardian is recognized and upheld.

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### Defining Parent

In general a “parent” could be: [41.30(1)]

- A biological or adoptive parent of a child
  - A foster parent (with exceptions)
  - A guardian generally authorized to act as the child’s parent (but not the Department of Human Services)
  - An individual acting in the place of a biological or adoptive parent
  - A surrogate parent
- 

### Foster Parents with Exceptions

A foster parent is deemed a person acting as the parent of an individual. In such situations surrogate parent appointment is not necessary unless circumstances indicate otherwise.

The Iowa Department of Education and the Department of Human Services are clarifying in what situations a foster parent may exercise parent rights under the IDEA.

Group home directors and caseworkers may not be assigned as surrogate parents. [(41.30(1)b)]

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### Guardian

A guardian is generally authorized to act as the child’s parent, or authorized to make educational decisions for the child, but that does not include the State (i.e., DHS) if the child is a ward of the state. [41.30(1)c]

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### Individuals Standing in the Place of the “Parent”

An individual may act in the place of a biological or adoptive parent including a:

- Grandparent
  - Step-parent
  - Other relative with whom the child lives
  - An individual who is legally responsible for the child’s welfare
  - Surrogate parent [41.30(1)d]
-

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**Power of Attorney for Educational Decision Making**

An eligible individual who has reached the age of majority may assign another person or persons to act as an attorney-in-fact for educational decision making. The AEA Special Education Documentation Guide provides a form for this purpose.

The power of attorney for educational decision making process is intended for age-of-majority students who would like assistance in educational decision making but do not have or need to have someone else appointed to represent their interests (e.g., guardian).

Assigning another person power of attorney may only be done by an individual who fully understands and appreciates the action being taken. That is, the impact of an individual's disability must be taken into account in determining if assigning power of attorney to someone else is appropriate for that individual. Someone who is incompetent may not execute a power of attorney.

Assigning power of attorney does not surrender any authority the individual holds, but only allows another person to exercise the same authority. For example, if you give someone power of attorney to sell your car, you can still sell it yourself.

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**Revoking Power of Attorney for Educational Decision Making**

An eligible individual who has reached the age of majority and has assigned another person or persons to act as an attorney-in-fact for educational decision making may revoke the power of attorney at any time. If the student was competent enough to sign a power of attorney, she or he presumably is competent enough to revoke it.

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**Ward of the State**

"Ward of the State" means a child who is: [41.45(1)]

- A foster child\*
- In the custody of a public child welfare agency
- A ward of the state\*\*

"Ward of the state" does not include a foster child who has a foster parent who meets the definition of a parent in rule 41.30. [41.45(2)]

\*\* "Ward of the state" is a term rarely used in Iowa law. It would be an extremely rare occurrence for a child to be ward of the state while not being either a foster child or in the custody of a public child welfare agency. [41.45(3)]

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**Evaluation of a  
Child that is a  
Ward of the  
State**

For initial evaluations only, if the child is a ward of the state and is not residing with the parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine if the child has a disability if:

- Despite reasonable efforts to do so, the whereabouts of the parent cannot be discovered
  - The rights of the parents have been terminated
  - The rights of the parent to make educational decisions have been subrogated by a judge and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child
- 

**Special  
Circumstances  
in Determining  
Who is  
Qualified to Act  
as Parent**

There are special circumstances where it may be necessary to determine who is qualified to act as the parent:

- When more than one party is qualified to act as a parent the biological or adoptive parent must be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child
  - If legal authority is in question, it may be advisable to request a copy of the most recent court order to verify the custody or guardianship of the child. [41.30(2)a]
  - If a judicial decree or order identifies a specific person or persons to act as the parent of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the parent [41.30(2)b]
  - “Parent” does not include a public or private agency involved in the education or care of a child or an employee or contractor with any public or private agency involved in the education or care of the child in that employee’s or contractor’s official capacity [41.30(2)c]
-

**Special  
Circumstances  
in Determining  
Who is  
Qualified to Act  
as Parent:  
Important  
Notes**

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***Parents with equal decision-making authority.*** Parents have equal IDEA decision-making authority unless the law provides otherwise, such as by a court order.

Parents with equal decision-making authority may have differences of opinion:

- **Differences regarding granting or revoking consent.** As long as a parent has the legal authority to make educational decisions for the child (married parents, divorced parents when each retain decision making authority, etc.), the school or AEA ***must accept either parent's*** consent or revocation of consent. This is true even if the other parent disagrees. Prior written notice of any action or refusal is provided to both parents.
- **Other differences.** If two parents have any other differences under the IDEA (e.g., a disagreement over potential service or placement options), the IEP team decides what is in the educational interest of the child and acts accordingly.

Prior written notice of any action or refusal is provided to both parents.

***Parents without equal decision-making authority.*** If two parents do not enjoy equal decision-making authority (e.g., one parent has “sole legal custody”), the district is required to follow the direction of the parent with the superior authority. [41.30(2)b]

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## Surrogate Parents

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**Surrogate  
Parent Defined**

“Surrogate parent” means an individual who acts in place of a parent in protecting the rights of a child in the education decision-making process.

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**Surrogate  
Parent  
Representation  
for the Child**

The surrogate parent may represent the child in all matters relating to:

- Identification
  - Evaluation
  - Educational placement of the child
  - The provision of FAPE to the child
- 

**When to  
Appoint a  
Surrogate  
Parent**

The appointment of a surrogate parent for the purposes of special education planning and programming must be made when: [41.519(1)]

- No parent can be identified (refer to definition of parent in rule 41.30)
  - After reasonable effort, no parent can be located
  - The child is a ward of the state
  - The child is an unaccompanied homeless youth
-

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**Criteria for  
Selecting a  
Surrogate  
Parent**

The AEA must ensure that a person selected as a surrogate parent: [(41.519(4))

- Is not an employee of the SEA, the AEA, or the LEA or any other public or private agency that is involved in the education or care of the child. Note: A person otherwise qualified to be a surrogate parent is not considered an employee of the agency solely because the person is paid by the agency to serve as a surrogate parent. [ 41.519(b)]
- Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents
- Has knowledge and skills that ensure adequate representation of the child

**Note:** In the case of an unaccompanied homeless youth, appropriate staff of:

- Emergency shelters
- Transitional shelters
- Independent living programs
- Street outreach programs

May be appointed as temporary surrogate parents without regard to this rule until a surrogate parent can be appointed that meets all of the requirements.  
[41.519(6)]

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**Procedures for  
Selecting a  
Surrogate  
Parent**

Procedures must be established for the assignment of an individual to act as a surrogate parent. This must include a method for determining whether a child needs a surrogate parent, and for assigning a surrogate parent to the child.  
41.519(2)

The following are procedures for selecting a surrogate parent:

- The AEA team shall determine that a surrogate parent is needed for an individual
  - The AEA team shall recommend an “eligible surrogate parent” candidate (meeting the above criteria) to the AEA Director of Special Education or designee for appointment as an individual’s surrogate parent
  - The AEA Director of Special Education or designee shall select the surrogate parent for special education purposes. The Director or designee shall contact the Department of Human Services Regional Administrator to ascertain whether the proposed surrogate parent has any conflict of interest
  - The AEA Director of Special Education or designee shall appoint the surrogate parent by letter. The letter must contain the individual’s name, age, educational placement and other information about the individual determined to be useful to the surrogate parent, and must specify the period of time for which the person shall serve. A copy of the letter shall be sent to the Department of Education
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**AEA to Train  
Surrogate  
Parents**

The training of a surrogate parent is the responsibility of the AEA team.

Each AEA shall use a training procedure approved by the Department of Education, which includes:

- The rights and responsibilities of the surrogate parent
  - Sample forms used by LEAs and AEAs, including the IEP form
  - Specific needs of individuals with disabilities
  - Resources for legal and instructional technical assistance [41.519(8)]
- 

**Iowa  
Department of  
Education to  
Assign  
Surrogate  
Parents**

The Iowa Department of Education must make reasonable efforts to assign a surrogate parent not more than 30 days after the AEA has determined that the child needs a surrogate parent.

The department shall provide assistance to, and shall monitor surrogate parent programs. [41.519(9)]

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# AEA Logo

## MEMO

TO: Surrogate Parent for \_\_\_\_\_  
Eligible Individual's Name

FROM: [Director or designee]

DATE:

In accordance with the Iowa *Administrative Rules of Special Education* relating to surrogate parents, the District Administration Office of the Iowa Department of Human Services was contacted to determine if a conflict of interest existed that would interfere with [Surrogate Parent Candidate] serving as a surrogate parent.

[Name of DHS Service Administrator], Service Administrator, [Location of District Office] District Office, was the person contacted. [He/She] stated on [Date] that no conflict of interest had been identified that would preclude you from serving as a parent surrogate. All contacts were by telephone.

# AEA Letterhead

Date

Surrogate Parent Name

Address

City, State, Zip

Dear [*Surrogate Parent Name*]:

Enclosed, please find the notice of your appointment as Surrogate Parent for [*child's name*] educational planning.

Please sign and return one copy of the agreement to the AEA Director of Special Education. Your responsibility is to be an advocate for him/her to protect [his/her] special education rights. You are knowledgeable about [*child first name*] disability and educational needs and will be participating in [his/her] educational planning.

Enclosed is the *Procedural Safeguards Manual for Parents*.

Sincerely,

[Director or designee name]

Position

Enc.

Dear [name of surrogate parent]:

Thank you for the interest you have demonstrated and the time you have invested in acquiring the skills and information necessary to be a surrogate parent. You have been authorized to represent [child's name] in the capacity of surrogate parent as defined by the Iowa *Administrative Rules of Special Education* in all matters relating to the provision of special education programming or services provided by the [LEA name and/or AEA name]. Your appointment shall become effective upon receipt of your signature verifying your agreement to participate.

Your appointment as a surrogate parent shall be continued until such time as [child's name]'s status and need for a surrogate parent is altered.

[Child's name], age [age of child], is currently identified as [an eligible individual or a child with disability].

Prior to this appointment, the Department of Human Services district administration has been contacted to verify that your service as a surrogate parent would not result in conflict of interest.

You have received training from the AEA regarding surrogate parent rights and responsibilities, special education forms and procedures, and potential program and service changes that may occur in the IEP process.

If at any time you have questions regarding your rights and responsibilities as a surrogate parent or the provision of appropriate special education services for [child's name], you may contact the building principal or staff, or [name of additional LEA or AEA contact].

In accepting this appointment, you have agreed to develop and maintain a knowledge of [child's name]'s disability and educational needs and to act in a reasonable and prudent manner in representing [his/her] interests. Your signature below is verification of your acceptance of the responsibility as a surrogate parent for [child's name]. Your assistance in this capacity is greatly appreciated.

\_\_\_\_\_  
AEA Director of Special Education/Designee

\_\_\_\_\_/\_\_\_\_\_  
Date

\_\_\_\_\_  
Surrogate Parent

\_\_\_\_\_/\_\_\_\_\_  
Date

# Extended Educational Decision Maker

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## **What is an Extended Educational Decision Maker?**

An extended educational decision maker is a person who has the authority to make educational decisions for an eligible individual who would ordinarily make these decisions for himself or herself but has been determined to be unable to make these decisions.

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## **Presumption of Ability to Make Educational Decisions**

It is presumed that an eligible individual who has reached the age of majority is able to make educational decisions for himself or herself.

The need for an extended educational decision maker is considered only when:

- an eligible individual has attained the age of majority, or rights have been otherwise transferred to the student, and
  - a request has been made to assign an extended educational decision maker, asserting that an eligible individual is to not be able to provide informed consent for educational decisions.
- 

## **When an Extended Educational Decision Maker May be Needed**

An extended educational decision maker may be needed when an age-of-majority eligible individual's decision-making capacity is so impaired that he or she is unable to:

- meaningfully participate in discussions related to his or her education, e.g. participate in IEP meetings, describe personal preferences and interests
- assist in educational decision making, or
- provide informed consent for evaluations.

Circumstances that would not, by themselves, create a need for an extended educational decision maker:

- The individual is capable of making decisions but the parents and/or educators disagree with or question the quality of those decisions
  - The individual is affected by a specific category or disability
  - An anticipated student decision may cause adverse effects for the district, AEA or state (e.g., the student wishes to drop out)
  - The parents or other caregivers wish to continue in a decision-making role because they have always made decisions for the individual
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**Extended Educational Decision Maker May Not be Used**

There are certain situations that preclude the use of the extended educational decision maker process. These are:

- A guardianship order that provides that the ward (i.e., the eligible individual) shall make educational decisions
  - **Note:** A “conservatorship” order from a district court or an order by Social Security Administration appointing a “representative payee” relate ***only to financial decisions***. They do not relate to the power to make educational decisions.
  - A guardianship order that does not specifically exclude educational decisions from the scope of the guardian’s powers
  - Another court or administrative order that specifically provides that the student shall make educational decisions
  - A power of attorney executed by the eligible individual that names someone as attorney in fact for educational decisions
- 

**Request for Assignment of an Extended Educational Decision Maker**

A request can be initiated by any of the following:

- the parent(s) of an eligible individual
- an LEA administrator
- an AEA administrator

The request shall state the following information:

- name, age, and address of the eligible individual
  - that this eligible individual is a person whose decision-making capacity is so impaired that he or she is unable to:
    - meaningfully participate in discussions related to his or her education, e.g. participate in IEP meetings, describe personal preferences and interests
    - assist in educational decision making, or
    - provide informed consent for evaluations
- 

**Determination of Student Status**

Upon receipt of a request for the assignment of an extended educational decision maker, the AEA shall make efforts to determine if any court or administrative order has assigned a guardian or other person to make educational decision on behalf of the eligible individual. Any such action by the court, occurring before or after the extended educational decision maker process supersedes a decision made by the AEA.

Copies of any relevant court or administrative orders will be requested.

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**Designating an Impartial Decision Maker**

The determination of an eligible individual's ability to make educational decisions will be made by the area education agency Special Education Director or the Director's designee. The individual who makes this determination must be an impartial decision maker who has no direct responsibilities for the eligible individual's educational program, school district, attendance center, or for LEA or AEA personnel who provide services to the eligible individual.

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**Proceeding to Determine Whether a Student is Able to Provide Informed Educational Consent**

The AEA shall initiate a proceeding to determine if the eligible individual is able to make educational decisions. The proceeding shall be completed at no cost to the parent(s) of the eligible individual.

At the proceeding the eligible individual and party(ies) requesting the assignment of an extended decision maker must be provided an opportunity to be heard and to provide evidence. This could be accomplished through a face-to-face meeting or telephone or video conferencing.

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**Notice of the Proceeding**

The AEA must provide the eligible individual and the party(ies) requesting the assignment of an extended educational decision maker notice of this proceeding. The notice shall state

- the agreed-upon date and time for the proceeding
  - the purpose of the proceeding, and
  - the parties (requestors and eligible individual) may invite others to the proceeding, just as they might invite others to an IEP meeting, or may, at their own expense, have legal representation.
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**Burden of Proof**

The burden of proof for the determination that an eligible individual is not able to make educational decisions is on the person asserting inability and requesting the assignment of an extended educational decision maker. ***The eligible individual does not have the burden of proving the ability to make educational decisions.***

The individual assigned by the AEA to make a determination is not an investigator, seeking to support the assertion made by the person(s) requesting the assignment of an extended educational decision maker, but a neutral party making a judgment based on the information provided.

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**Determination by the Impartial Decision Maker**

The impartial decision maker shall consider credible evidence from any relevant source, including third parties such as waiver providers, residential care providers, or others.

The determination of ability to make educational decisions shall be supported by clear and convincing evidence that leaves no serious or substantial doubt about the conclusion reached by the impartial decision maker.

If, based on the evidence considered, reasonable minds could hold differing opinions, the presumption that an eligible individual who has reached the age of majority is able to make educational decisions for himself or herself must be affirmed.

The determination of the impartial decision maker shall rest solely on the eligible individual's ability to make decisions, **not**:

- The quality of the eligible individual's decisions,
  - The eligible individual's disability category,
  - The educational impact of the eligible individual's decisions, or
  - Past practice of making decisions for, rather than by, the individual
- 

**Notice of  
Determination**

The determination of the impartial decision maker shall be documented in writing and provided to the eligible individual, the party(ies) requesting the assignment of an extended educational decision maker and to the eligible individual's school district.

If an eligible individual is determined to be unable to provide informed educational consent, the notice shall state that an extended educational decision maker will be appointed to represent his or her educational interests and that this individual has the authority to participate in all discussions and all decision making related to the student's education, including:

- identification
- evaluation, including consent to conduct evaluations
- educational placement
- the provision of FAPE to the student

The notice shall advise the eligible individual of:

- the right to representation,
- the transfer of the student's educational rights to the extended educational decision maker, and
- if known at the time the notice is provided, the name(s) of the extended educational decision maker(s).

**Note:** In most cases the extended educational decision maker(s) will be the parent(s).

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**Appointment of an Extended Educational Decision Maker**

If an eligible individual to whom authority for educational decision making would otherwise transfer is determined to be unable to make educational decisions, the AEA must assign an extended educational decision maker to represent the educational interests of an eligible individual that has reached age-of-majority not more than 30 days after that determination.

If a student has been determined to not be able to provide informed consent the AEA shall appoint the parent(s) as the extended educational decision maker. A broad definition of “parent” applies in such circumstances (e.g. stepparent, grandparent, etc.) The decision rules in 281—41.30 shall be used if there is a dispute about which person who meets the definition of a “parent” to appoint. If a parent cannot be identified the AEA shall use procedures to appoint a surrogate parent.

The AEA must ensure that any person other than the parent(s) selected as an extended educational decision maker:

- is not an employee of the SEA, the LEA, or any other public or private agency that is involved in the education or care of the student
- has no personal or professional interest that conflicts with the interest of student the appointed person represents
- has knowledge and skills that ensure adequate representation of the student

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**Training**

The AEA shall provide training needed by any person other than the parent(s) that is selected to represent the educational interest of an eligible individual that has reached age-of-majority and who has been determined to be unable to provide informed consent. AEA training procedures must be approved by the Iowa Department of Education and must include:

- rights and responsibilities of a substitute decider
- sample forms used by LEAs and AEAs
- specific needs of individuals with disabilities
- resources for legal and instructional technical assistance

**Note:** A parent appointed as an extended educational decision maker is not required to meet the training requirements of surrogate parents.

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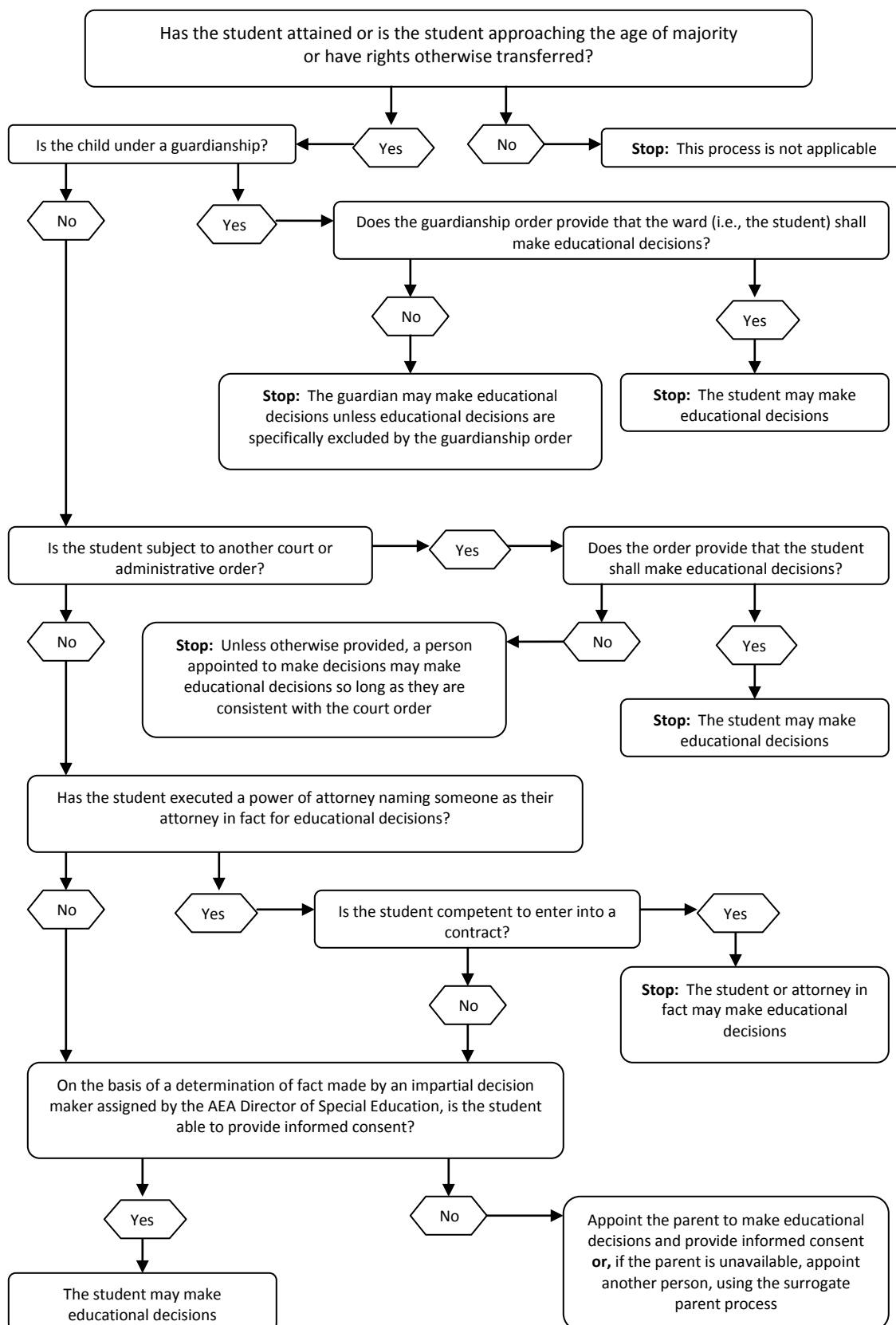
**Responsibilities of the Extended Educational Decision Maker**

An individual appointed as an extended educational decision maker may represent the student in all matters relating to the identification, evaluation (including the provision of consent for conducting evaluations), and educational placement of the student, and the provision of FAPE.

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## Extended Educational Decision Maker



## Parental Participation

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### Use of Interpreters or Other Provisions Needed for Parent Understanding; Notices Given in Native Languages

Meaningful parental participation in special education processes and decision making relies on full and clear communication.

AEAs and LEAs must take whatever action is necessary to ensure that the parent understands the proceedings of IEP team meetings, including arranging for an interpreter for parents with deafness or whose native language is other than English. [41.322(5)]

Consent notices and Prior Written Notice **must** be provided in native language of the parents. This requirement applies both to the prompts printed on the consent and notice forms **and** the information provided to the parents in the process of completing the forms. [281—41.9; 41.503(3)]

Spanish, Bosnian, Serbo-Croatian, Vietnamese, Laotian and Arabic versions of state special education forms are provided on Transact.com. This website is free to all AEAs and districts in Iowa. Instructions to access this website are included in the AEA Special Education Documentation Guide.

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### Parent Participation in Meetings

Parents must be afforded an opportunity to participate in any meeting discussing the following topics as they relate to their child:

- Evaluation
- Educational placement
- Provision of FAPE
- Identification

**Note:** A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting. [41.501(2)]

AEA and LEA personnel shall seek active parent participation throughout the process, directly communicate with parents and encourage parents to participate at all decision points.

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### Notifying Parents of Meetings

Parents are afforded the opportunity to participate by being notified of meetings early enough to ensure they have an opportunity to attend and by being advised of the purpose, time and location of the meeting.

They are also notified of who will be attending the meeting by name and position. This is accomplished by local school districts sending parents a completed *Meeting Notice* form within appropriate timelines. [41.322; 41.501(2)]

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**Meeting Notice Form**

The *Meeting Notice* form is required for meetings to discuss the results of a full and individual evaluation or the development of an initial, annual, reevaluation, amended or exit IEP.

The *Meeting Notice* form is not required for informal or unscheduled conversations.

Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP team meeting or are afforded the opportunity to participate, including: [41.322(1)]

- Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend
  - Scheduling the meeting at a mutually agreed upon time and place
- 

**What Should the Meeting Notice Include?**

The meeting notice should include the following: [41.322(2)]

- The purpose, time and location of the meeting and who will be in attendance (name and position)
  - Information about the right to include other individuals who have knowledge or special expertise about the child
  - If age 14 (or younger if appropriate), the notice must indicate the purpose of the meeting and include the consideration of the postsecondary goals and transition services for the student and that the agency will invite the student. It should also identify any other agency that will be invited to send a representative
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**Methods to Ensure Parent Participations**

If neither parent can attend an IEP meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls or video conferences. [41.322(4); 41.328]

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**Conducting a Meeting without a Parent in Attendance**

A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parent that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed upon time and place including: [41.322(4)]

- Detailed records of telephone calls made or attempted and the results of those calls
  - Copies of correspondence sent to the parents and any responses received
  - Detailed records of visits made to the parent's home or place of employment and the results of those visits
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**Providing  
Copies of the  
IEP to the  
Parent**

The public agency must give the parent a copy of the child's IEP at no cost to the parent. [41.322(6)]

An agency shall not present a completed and finalized IEP to parents before there has been a full discussion with the parents regarding the eligible individual's need for special education and related services, and the services the agency will provide to the individual.

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**Agency  
Preparation for  
the Meeting**

An agency may come prepared with:

- Evaluation findings
- Proposed statements of present levels of educational performance
- Proposedcommendations regarding annual goals or instructional objectives
- Proposals concerning the nature of special education and related services to be provided

The agency shall inform the parents at the outset of the meeting that the proposals are only recommendations for review and discussion with the parents. [41.322(7)]

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# Parent Consent

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## Parental Consent Defined

The legal meaning of consent is described below.

“Consent” is obtained when all of the following conditions are satisfied: [41.9(1)]

- The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication
- The parent understands and agrees in writing to the carrying out of the activity for which parental consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom
- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

**Note:** If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that occurred after the consent was given and before the consent was revoked.) [41.9(2)]

As long as a parent has the legal authority to make educational decisions for the child (married parents, divorced parents when each retain decision making rights, etc.), the school or AEA **must accept either parent's** consent or revocation of consent. See discussion above: Determining and Defining “Parent”

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## When is Parental Consent Required?

Parental consent is required:

- When an LEA or AEA conducts an initial evaluation [41.300(1)]
- Before special education services can begin for the first time [41.300(2)]
- When an LEA or AEA completes new assessments as part of a reevaluation [41.300(3)]
- To excuse a required IEP team member from a meeting where the member’s curricular area or related service will be discussed or changed, and the member submits written input. [41.321(5)b(1)]
- When an LEA or AEA seeks to utilize the parents’ private or public insurance to pay for a service or activity that is the responsibility of the LEA or AEA [41.154(4)] [41.154(5)]
- When personally identifiable information is disclosed to other parties, except under certain circumstances [41.622]

**Note:** An AEA or LEA may not use a parent’s refusal to consent to one service or activity to deny the parent or child any other service, benefit, or activity of the AEA or LEA. [41.300(4)c]

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**When is  
Parental  
Consent Not  
Required?**

Consent is not required:

- When conducting a review of existing data as part of an evaluation or reevaluation [41.300(4)a(1)]
- When administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children [41.300(4)a(2)]

It is important to note that consent is valid only for the specific action for which consent is obtained. For example, consent for an initial evaluation may not be construed as consent for initial placement in special education or related services.

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**Right to Revoke  
Consent for  
Services**

Effective December 31, 2008, federal regulations were amended to permit parents to unilaterally withdraw their children from further receipt of special education and related services by revoking their consent for the continued provision of special education and related services to their children. As long as a parent has the legal authority to make educational decisions for the child (married parents, divorced parents when each retain decision making rights, etc.), the school or AEA **must accept either parent's** revocation of consent.

**Note:** Age-of-majority students also have the right to revoke consent for their special education services.

An AEA or LEA **may not** use mediation or a due process hearing to challenge the parent's decision or to seek a ruling that special education and related services must continue to be provided to the child.

Parental revocation of consent must be **in writing** and upon revocation of consent the LEA or AEA must provide the parent with prior written notice before ceasing the provision of special education and related services.

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## Parent Agreement

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### Differences Between Parent Agreement and Consent

In addition to those areas where consent is required, there are numerous matters that require parent agreement.

Consent always means signed, written consent.

Agreements, while they should be documented, do not always require parent signature. The principles of consent (fully informed parents, understanding of that which is agreed upon, etc.) also apply to agreements.

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### When is Parental Agreement Required?

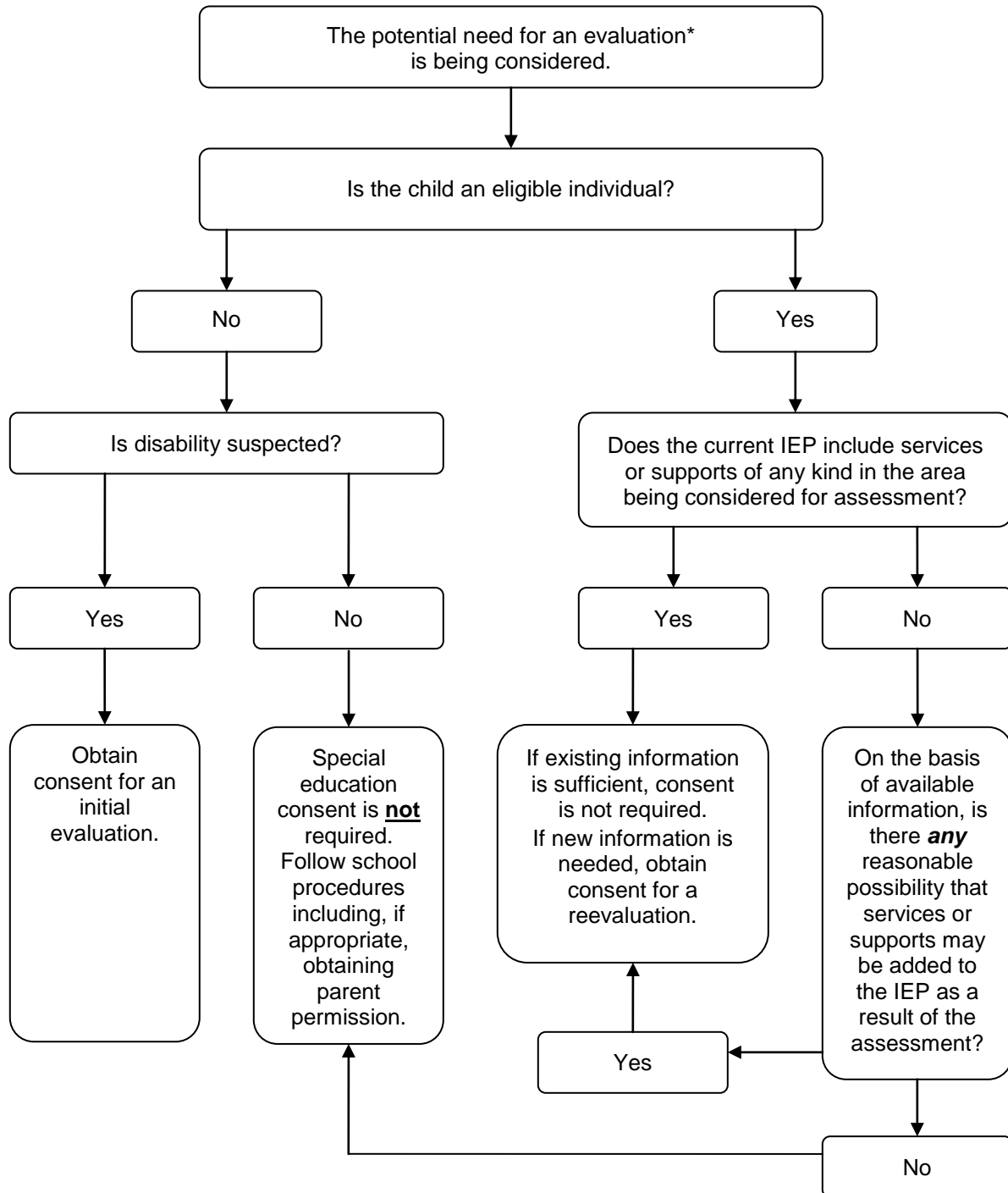
Matters where parental agreement is *required* include:

- Establishing the timeline for the completion of an initial evaluation that was begun before a student transferred to a new LEA [41.301(5)]
- Conducting reevaluations more than once per year [41.303(2)a]
- Determining a reevaluation is unnecessary [41.305(4)a]
- Implementing and modifying systematic problem solving activities [41.313(2)]
- Setting the meeting time and place for an IEP [41.322(1)]
- Excusing a required IEP team member when the member's area of curriculum or related service will not be discussed or changed [41.321(5)a]
- Amending an IEP without a meeting [41.324(1)d]
- Defining the services and placement specified in an interim IEP [41.324(5)b]
- Changing the IEP of a student in a private placement when the private facility has initiated an IEP meeting [41.325(2)]
- Accomplishing parent participation in an IEP meeting through alternate means (e.g., use of a speakerphone) [41.328]

**Note:** Many of the activities related to resolving differences of opinion regarding the education of a special education student (e.g., resolution facilitator process, preappeal conference, due process complaints) also require parent agreement at various points. See the chapter "Resolving Differences" for additional information.

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## When is Special Education Consent for an Evaluation Needed?



\* *Evaluations* do not include screening for instructional purposes (i.e., screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation) or group screenings (e.g., hearing, vision). Special education consent **is not** required for these screening purposes.



## Prior Written Notice of a Proposed or Refused Action (Parent Notice)

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### **Prior Written Notice Must be Given to Parents**

Prior written notice must be given to the parents of a child with a disability after a decision has been made but within a reasonable time before the LEA or AEA: [41.503(1)]

- Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child
- Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child

The proposal or refusal must relate to one of the above as these are issues over which an IEP team has the authority to make decisions.

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### **What Must a Prior Written Notice Include?**

The notice must include the following: [41.503(2)]

- A description of the action proposed or refused by the agency
  - An explanation of why the agency proposes or refuses to take the action
  - A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action
  - A statement that the parents have protection under the due process provisions of special education and, if this notice is not an initial referral for evaluation, how the parent may obtain a copy of the description of the procedural safeguards
  - Sources for parents to contact to obtain assistance in understanding the provisions of the laws and rules
  - A description of other options that the IEP team considered and the reasons why those options were rejected
  - A description of other factors that are relevant to the agency's proposal or refusal
- 

### **Prior Written Notice Must be Understandable**

The notice must be written in language that is understandable to the general public, and must be provided in the native language of the parent (or other mode of communication) unless it is clearly not feasible to do so. [41.503(3)]

---

### **Parent Rights and the Prior Written Notice**

Before any action is implemented, the parent has the right to access due process procedures to dispute any issue communicated in the *Prior Written Notice* form. This would include a request for a preappeal conference use of an AEA resolution facilitator or an impartial due process hearing.

Thus, the Prior Written Notice that constitutes the basis for a parent's hearing request must include the agency's final action, or decision, on the proposal or refusal.

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## Prior Written Notice: Examples of Actions and Refusals

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### **Examples of Actions and Refusals Requiring Prior Written Notice**

Examples of actions and refusals requiring Prior Written Notice:

- Decision not to conduct initial evaluation
  - Change of disability designation
  - Change in services or placement, including consent for initial special education services
  - Addition or termination of service (including termination due to parent revocation of consent, graduation, etc.)
  - Change in model of delivery of service, e.g.:
    - Mode – such as direct to indirect
    - Pull-out to general class
  - Addition, deletion or change of ESY services
  - Addition or deletion of goal
  - Change in related service:
    - Transportation
    - Behavior plan
    - Special health plan
    - Assistive technology
    - Equipment
  - Amendment to an existing IEP
    - Whenever discipline results in a change of placement
-

**Examples of  
Actions and  
Refusals NOT  
Requiring Prior  
Written Notice**

Examples of actions and refusals not requiring Prior Written Notice:

- Change of qualified service provider
- Changes or updates of goals and objectives that do not change services
- Change in location of service not controlled by school agency:
  - Foster care
  - Hospitalization
  - Parent relocation
- Change in location of service which does not change service:
  - Different classroom
  - Age/grade-appropriate movement (peer promotion to middle/junior/senior high)

**Note:** The determination of the significance of the change must be determined on a case by case basis. Each IEP team must use professional judgment in this decision. In instances of questioned significance, best practice would be to document the decision using a Prior Written Notice form.

The table on the following page details requirements related to actions requiring prior written notice.

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## Documentation of Consent, Agreement, and Prior Written Notice

Process	Form Used
School screenings or evaluations when consent <i>is not</i> obtained for all students	None
School screening or evaluations when consent <i>is</i> obtained for all students	School adopted forms
Full and individual initial evaluation	<i>Consent for/Notice of Evaluation</i>
Reevaluation when additional assessment information will be collected	<i>Consent for/Notice of Evaluation</i>
Initiating the provision of special education and/or related services	<i>Consent for Initial Special Education and/or Related Services</i>  <i>Prior Written Notice</i>
Ending the provision of all special education and/or related services due to graduation, the team determination that services are no longer needed or parent revocation of consent for services	<i>Prior Written Notice</i>
IEP changes to activities, services, supports or placement	<i>Prior Written Notice</i>
Refusal of a parent request related to evaluation, identification, activities, services, supports or placement	<i>Prior Written Notice</i>
Excusal	<i>Agreement to Excuse Attendance at IEP Meeting</i>
Utilizing Medicaid coverage for special education services and supports	LEA or AEA adopted documentation
Release of educational records	<i>Authorization of Exchange of Information</i>  <i>Authorization for the Release of Health and/or Educational Information</i>
Amendment without a meeting	<i>Individualized Education Program (IEP) Page A</i>
Establishing agreed upon meeting time and place	<i>Meeting Notice</i>
Dispute resolution agreements	See <i>Dispute Resolution</i> chapter

## Parent Procedural Safeguards

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### **Review Procedural Safeguard Manual for Parents with Parents at Initial Evaluation**

The *Procedural Safeguards Manual for Parents* must be given to parents one time per year. It can be sent to the parents with the Meeting Notice for review of IEP, or given to the parents at the IEP meeting. The requirement being met is “once a school year.”

A copy of the manual also must be given to parents: [41.504(1)]

- Upon initial referral or parental request for evaluation
- Upon the first occurrence of the filing of a state complaint or the first due process complaint in a school year
- In accordance with discipline procedures in [41.530(8)] which requires:
  - “On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision and provide the parents the procedural safeguard notice”
- Upon request by a parent

Procedural safeguards should be reviewed with the parents and the review should be documented on the *Consent for/Notice of Evaluation* form. When parents sign this form their signature gives consent and also acknowledges that they have received the safeguards document and understand their rights.

The Procedural Safeguards Summary may be used to facilitate the review of rights with parents and eligible students. However, the summary may not be used as a substitute for *Procedural Safeguards Manual for Parents*.

The *Procedural Safeguards Manual for Parents* for Part B (3-21) students and the Early ACCESS *Procedural Safeguards Manual for Parents* are available from your AEA and also online:

Early Access (birth-2):

[http://www.iowa.gov/educate/index.php?option=com\\_content&task=view&id=603&Itemid=1603](http://www.iowa.gov/educate/index.php?option=com_content&task=view&id=603&Itemid=1603)

Part B (3-21)

[http://www.iowa.gov/educate/index.php?option=com\\_content&task=view&id=602&Itemid=1604](http://www.iowa.gov/educate/index.php?option=com_content&task=view&id=602&Itemid=1604)

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# Resolving Differences in Special Education

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## Overview

From time to time differences of opinion regarding the education of a student arise.

Differences of opinion may develop regarding evaluation, eligibility, placement, and the provision of FAPE. Every attempt should be made to resolve differences between individuals with differing opinions.

Efforts should include:

- Consulting with other professionals, including AEA and LEA administrators
- Utilizing a facilitator in meetings when disagreements are anticipated
- Adjourning to reconvene later with a facilitator
- Adjourning to reconvene later with additional information, and other approaches

**Note:** The role of an administrator who *is not* a member of the IEP team and whose input is sought is **advisory**. The authority of the IEP team to make decisions and commitments on behalf of an eligible individual is not compromised through consultation with an administrator. However, if an administrator determines that any of the proposals under consideration would be out of compliance or clearly fail to provide FAPE to an eligible individual, it is the administrator's obligation to communicate that conclusion to the IEP team.

This section will identify and explain each of the options available to assist IEP teams as they seek to resolve their differences.

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## Preferred Mode of Conflict Resolution

The preferred mode of conflict resolution is direct negotiation among the persons with the disagreement. The least preferred mode is litigation, which would begin with the filing of a due process complaint.

The ideal solution is for people to address their differences themselves and work together to resolve them at the earliest possible time. Another good option is to seek the assistance of an impartial person to assist in the negotiations. Neither direct negotiations nor use of the Resolution Facilitator Process (described below) necessitate contacting the Department of Education about the disagreement.

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## Documentation and reporting of differing opinions

The Prior Written Notice form provided to parents calls for "A description of any other options the school considered and the reasons why those options were rejected". Whenever varying options have been discussed at an IEP meeting, the options that were not selected by the team for inclusion in the IEP and the team's rationale must be clearly described.

If any professional believes that the IEP fails to provide a FAPE or that the IEP contains provisions that are not in compliance with the Iowa Administrative Rules of Special Education, the professional must report this to his or her supervisor.

**Dispute  
Resolution  
Procedures**

Moving from the broader to the narrower part of the pyramid (below,) the formality of the dispute resolution procedures increases, and the Iowa Department of Education becomes involved because someone has requested a preappeal conference, a due process hearing or has filed a written complaint.

In addition, where legal issues are a part of the dispute, lawyers are often hired by AEAs, LEAs, and families. Litigation is the least desirable approach in principle because it takes decision making out of the hands of the persons directly involved in the disagreement.

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## AEA Resolution Facilitator Process

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### Overview

When the parties to a disagreement are willing to continue to work together to resolve issues, using a resolution facilitator may help. Several hundred resolution facilitators across the state of Iowa have been trained as mediators.

Most “resolution facilitators” are AEA staff, some are school district staff, and some are community people. These individuals are available to work with IEP teams to resolve issues.

Each AEA has a Resolution Facilitator Coordinator who can assist with the assignment of an appropriate facilitator. The Coordinator also has a complete set of forms and procedures that may be used before, during and after the AEA Resolution Facilitator process.

Using a Resolution Facilitator is not a prerequisite to using other options to resolving differences.

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### What Does a Resolution Facilitator Do?

A resolution facilitator has no authority to make judgments but instead focuses the responsibility for resolving the issues on the participants. The resolution facilitator will:

- Explain the process and answer questions the participants may have
- Assist the participants in establishing basic communication guidelines
- Help clarify the issues
- Assist in a conversation about how to improve the situation

If the participants reach an understanding, the resolution facilitator will:

- Help craft the agreement, using the words of the parties
- Ask the parties to select a shepherd who will oversee the agreement and serve as the point of contact
- Make sure the statement of agreement is accurate
- Prepare a written agreement for signatures

**Note:** If the agreement reached represents a significant change in the identification, evaluation, or educational placement of the child or the provision of FAPE to the child, this must be documented in the *Prior Written Notice* form. (See pp. 74-75 of the IEP manual)

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**What to do  
When  
Differences Are  
Not Resolved**

When efforts to resolve differences do not succeed, the following procedures are applied:

- If consensus cannot be reached regarding placement or LEA services, the LEA representative will confirm the district's proposal for placement or services and communicate this proposal through a *Prior Written Notice*
  - If consensus cannot be reached regarding AEA services, an AEA representative will confirm the AEA's proposal for services and communicate this proposal through a *Prior Written Notice*
  - If consensus cannot be reached regarding an eligibility determination, an AEA representative will confirm the AEA's proposed eligibility determination and communicate this proposal through a *Prior Written Notice*
- 

**Parents Have  
the Right to  
Request a Due  
Process Hearing**

Before any proposed action is implemented, the parent has the right to request an impartial due process hearing on any issue in the *Prior Written Notice*.

Thus, the prior written notice that constitutes the basis for a parent's hearing request must include the agency's final action, or decision, on the proposal or refusal.

The prior written notice forms the basis for the parents to request a hearing. When possible, this notice should be completed at the close of the meeting where the decision(s) has been made so that the contents are clear to all participants.

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## Preappeal Conferences

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### **Preappeal Conference Defined**

In Iowa practice, a request for mediation filed ***before*** the filing of a due process complaint is referred to as a “request for a special education preappeal conference”. Because a request for due process has not been filed at this time, the timelines related to due process are not in effect.

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### **Who May Request a Preappeal Conference?**

A parent, LEA, or AEA may request a special education preappeal conference on any decision relating to the:

- Identification
- Evaluation
- Placement
- Provision on FAPE

A pre-appeal conference is not a prerequisite to other options for resolving differences. Participation in this process by all parties is voluntary. [41.1002(1)]

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## Procedures for Preappeal Conferences

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### **Request a Preappeal Conference by Writing a Letter**

Request for a preappeal conference is made by writing a letter that is mailed to the Iowa Department of Education.

Include the following in the letter:

- Name of the student
- Name of the district
- Name of the AEA

Also include facts and issues of concern or reasons for the conference. The letter must be mailed to the department as well as copies sent to the district and the AEA.

A model request form is located in the *Procedural Safeguards for Parents*.  
[41.1002(1)a]

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### **Department of Education Contacts Parties**

Within five business days of receipt of the request for the conference, the Iowa Department of Education will contact all pertinent parties to determine if they desire to participate.

This contact may include providing the parties with information regarding other options for resolving issues (e.g., AEA Resolution Facilitator Process).

If a preappeal conference will be held, the Iowa Department of Education will send a checklist to the LEA and AEA to obtain information about the student.  
[41.1002(1)b]

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### **Time of Preappeal Conference**

A preappeal conference will be held at a time and place reasonably convenient for all parties. Written notice will be sent to all parties by the department.  
[41.1002(1)c]

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### **LEA or AEA Submits Preappeal Checklist**

The LEA or the AEA will submit the special education preappeal checklist to the department and will provide a copy to the parent within 10 business days after receiving the request. [41.1002(1)d]

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### **Student's School Records Available to Parent and Participants in Preappeal**

The student's complete school record shall be available for review by the parent prior to the conference, if requested in writing at least ten calendar days before the preappeal. [41.1002(1)e]

The individual's complete school record shall be available to all participants in the preappeal conference. [41.1002(1)f]

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**Mediator to Chair Preappeal Conference**

The preappeal conference will be chaired by a mediator provided by the Iowa Department of Education. [41.1002(1)g]

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**Reaching or Not Reaching an Agreement in Preappeal**

If an agreement is reached, a legally binding agreement will be prepared and disseminated by the mediator.

If an agreement is not reached, all parties will be notified of procedures to follow for filing a formal due process complaint. [41.1002(1)h,i]

The special education preappeal process shall not deny or delay a party's right to a due process hearing.

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**Student Must Remain in Present Placement**

Unless the parties agree otherwise (with the exception of certain preappeals concerning disciplinary removals), the student involved in the preappeal conference must remain in the present educational placement during the preappeal proceedings. [41.518(5); 41.1002(2)]

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**Preappeal Request May be Withdrawn**

The party who initiated the request for a preappeal may request a withdrawal of that request at any time prior to the conference.

The department will automatically close the file if any of the following circumstances apply: [41.1002(3)]

- One of the parties refuses to participate
  - The preappeal conference is held but parties are not able to reach agreement
  - The preappeal conference is held and parties are able to reach an agreement but the agreement doesn't specify a date for withdrawing the preappeal request.
- 

**Preappeal Discussions Confidential**

Discussions that occur during the special education preappeal conference must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings. [41.506(2)]

Prior to the start of the conference, the parties and the mediator will be required to sign an Agreement to Mediate form containing the confidentiality provision. [41.1002(4)]

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## Mediation Conference

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**How is a  
Mediation  
Conference  
Conducted?**

A mediation conference is conducted in the same manner as a preappeal conference except that it is offered to parties *after* a request for a due process hearing has been made.

Following a request for a due process hearing, the AEA and LEA must first offer the parents a resolution meeting. If all parties jointly agree to forego the resolution meeting and jointly request a mediation conference, then it will be offered.

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**Mediation  
Conference  
Participation  
Voluntary and  
Conducted by a  
Mediator**

Participation in a mediation conference is voluntary on the part of all parties and is conducted by a qualified and impartial mediator.

The Department of Education maintains a list of qualified mediators who are knowledgeable in laws and regulations relating to special education. Mediators are trained and assigned by the Department of Education at no cost to the AEA or LEA. [41.506(2)]

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**What to do  
When an  
Agreement Has  
Been Reached**

An agreement reached by the parties must be set forth in a written mediation agreement. It must be signed by both the parent and a representative of the LEA or AEA who has the authority to bind the agency.

This agreement is enforceable in any state court or US district court. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings. [41.506(2)f]

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## Due Process Complaints

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### When Can a Due Process Complaint be Filed?

A parent or a public agency may file a due process complaint (i.e., request a due process hearing) on matters relating to:

- The identification, evaluation or educational placement of a child with a disability
- The provision of FAPE to the child

The due process complaint must allege a violation that occurred ***not more than two years*** before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint. [41.507(1)]

The two-year rule does not apply if specific misrepresentations by the LEA or AEA that it had resolved the problem forming the basis of the due process complaint occurred, or if the LEA or AEA withheld information from the parent that was required to be provided to the parent. [41.511(6)]

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### What to do When Parents Want to Request a Due Process Hearing

When parents have disagreements with the LEA or AEA that lead to impasse despite informal attempts at resolution, they should be informed of their right to an impartial due process hearing.

The *Procedural Safeguards Manual for Parents* should be given to parents at this time. Parents must be informed of any free or low cost legal and other relevant services available in the area. [41.507(2)]

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### How to File a Request for Due Process Hearing

Filing a request for a hearing is not a difficult process and an attorney is not required.

A model form is included in the *Procedural Safeguards Manual for Parents*. A person filing for a due process hearing may have legal or other assistance if desired.

The request for a due process hearing must: [41.508(2)]

- State the name and address of the residence of the child
- Identify the school the child attends
- Provide a description of the nature of the problem of the child and how this relates to the proposed or refused initiation or change, including the facts related to the problem
- Identify a proposed resolution of the problem
- Be sent to:
  - Director, Iowa Department of Education, Grimes State Office Building, 400 E 14th Street, Des Moines IA 50319-0146
  - The LEA and the AEA

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**How Should the  
AEA and LEA  
Respond to a  
Complaint?**

AEA/LEA response to a due process complaint:

- Within 10 days of receiving a hearing request, send a prior written notice to the parent regarding the subject matter contained in the parent's due process request if it has not been done. Send a response that specifically addresses the issues raised in the hearing request if not included in the previous prior written notice [41.508(5)(6)]

Within 15 days of receiving notice of the parent's due process complaint, the LEA/AEA must:

- Send written notification to the DE and parent if the hearing request is not considered to meet all due process complain notice requirements.
- Provide an opportunity to hold a resolution meeting with parents and relevant member(s).

**Note:** Any LEA/AEA professional should contact their Special Education Director or designee at any time that they become aware of a situation in which a dispute or unresolved issue may result in a request for a due process. The formal processes related to a request for a hearing will be directed by agency administrators in consultation with legal counsel.

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## Types of Hearings

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### Three Types of Hearings

There are three types of hearings: [41.1005(4)]

- A hearing based on the stipulated record wherein the controversy is decided based upon the record, written briefs or arguments
- An evidentiary hearing in which witnesses are called and cross-examined under oath
- A mixed evidentiary and stipulated record hearing

The due process hearing is presided over by an independent administrative law judge (ALJ,) who is not an employee of the Iowa Department of Education or the public agency involved in the education of the child.

The hearing results in a decision that is final unless a party appeals by bringing a civil action. [41.514]

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## Timelines Involving Parent-Initiated Due Process Complaint Hearing

*(Does not apply to expedited hearings)*

Parents	LEA/AEA	ALJ
Timeline starts when LEA and SEA receive parent due process complaint (hearing) request. (Must allege a violation that occurred not more than <b>two years</b> before the date the parent knew or should have known about the alleged action that forms the basis of the complaint, or if the State has an explicit time limitation for presenting such a complaint under this part. There are exceptions.)	<p>Within <b>10 days</b> of receiving hearing request:</p> <ul style="list-style-type: none"> <li>▪ Send a prior written notice to the parent regarding the subject matter contained in the parent's due process request if it has not been done.</li> <li>▪ Send to the parents a response that specifically addresses the issues raised in the hearing request if not included in #1 (prior written notice).</li> </ul>	
	<p>Within <b>15 days</b> of receiving due process complaint (hearing) request:</p> <ul style="list-style-type: none"> <li>▪ Send written notification to the DE (for ALJ) and parent <i>if</i> the hearing request is not considered to meet all the due process complaint (hearing) notice requirements.</li> <li>▪ Provide an opportunity to hold resolution meeting with parents and relevant member or members of IEP team.* However, all parties have the option of using the state's mediation process instead of holding the resolution meeting but the offer for the resolution meeting must be made.</li> </ul>	<p>Within <b>5 days</b> of receiving notification from the LEA of alleged insufficient notice from the parent, rule and immediately notify parties of his/her determination of notice adequacy. This is to be in writing.</p>
If ALJ rules the due process hearing request notice is insufficient, the parent may amend the notice only under certain circumstances. No timeline is given.		
If the parent files an amended due process hearing request the timelines shall recommence on the date of receipt by the LEA and DE, including the timeline for the resolution session.		

Parents	LEA/AEA	ALJ
		If the LEA has not resolved the complaint to the satisfaction of the parents within 30 days of receipt of the complaint, the due process hearing may occur. Adjustments to the 30-day resolution period are described at §300.510(c) and the 45-day timeline starts.

\*A party may not have a hearing on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements.

## Resolution Meeting

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### Overview

When other efforts to resolve disputes have been unsuccessful, parents may file a due process complaint.

When a parent requests a hearing, the LEA and the AEA are required to offer a resolution meeting to the parent, in order to provide an opportunity for resolving differences without a hearing. This must be done within 15 days of receiving the hearing notice. [41.510(1)]

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### Provide Parents with *Procedural Safeguards for Parents Manual*

Provide parents with a copy of *Procedural Safeguards for Parents*.

One of the circumstances that require districts to provide parents of children with disabilities with a copy of this document is upon receipt of the first due process complaint in a school year.

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### Contact Parents and Inform Them of Requirements

Contact the parents to inform them of the requirements related to a resolution meeting.

The conclusion of this contact will be to either schedule a meeting or jointly agree in writing to waive a resolution meeting and proceed to mediation or a due process hearing.

Unless a resolution meeting is waived, it is to take place within **15 calendar days** of receiving notice of the parent's complaint. This timeline may be extended if the parent fails to participate within the prescribed time period. [41.510(2)c]

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### Determine Which IEP Team Members Must Attend the Meeting

The parents and the LEA and AEA mutually determine which IEP team members need to attend the meeting. The meeting must include: [41.510(1)]

- Relevant member or members of the IEP team who have specific knowledge of the facts identified in the due process complaint
- Representatives of the LEA and AEA who have decision-making authority

**Note:** A resolution meeting **may not** include the attorney of the LEA or AEA unless the parent is accompanied by an attorney.

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### Facilitator Strongly Suggested

The parties are **strongly encouraged** to have a facilitator assist in the resolution meeting. An AEA resolution facilitator may be utilized or the Iowa Department of Education can be asked to appoint a facilitator.

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<b>Parent Not Participating in the Resolution Meeting</b>	If the LEA and AEA are unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented, at the conclusion of the 30 day period they may request that the administrative law judge dismiss the parent's due process complaint. [41.510(2)d]
<b>LEA and AEA Failure to Schedule the Resolution Meeting</b>	If the LEA and AEA fail to hold the resolution meeting within the 15 day period or fail to participate, the parent may seek the intervention of the administrative law judge to begin the due process hearing timeline. [41.510(2)e]
<b>Legally Binding Agreement Must be Signed When Resolution is Reached</b>	If the resolution to the dispute is reached at the meeting, there must be executed a legally binding agreement that is signed by both the parent and a representative of the AEA or LEA who has authority to bind the agency. This agreement is enforceable in any state court or US district court or by the department. [41.510(4)]
<b>What to do When a Resolution Meeting Does Not Solve the Complaint</b>	If the resolution meeting has not resolved the complaint to the satisfaction of the parents within 30 calendar days of the receipt of the complaint, a due process hearing may occur. The timeline for the completion of the hearing process begins after the 30 day resolution period ends. Typically, there is a 45 day timeline for the hearing after the 30 day resolution period.

## Tips for LEA/AEA When Conducting a Resolution Meeting

**Purpose of Resolution Meeting:** For the parent of the child to discuss the due process complaint and the facts that form the basis of the due process complaint so that the LEA/AEA has the opportunity to resolve the dispute without having a hearing before an administrative law judge (ALJ).

### CHECKLIST

#### **First steps:**

- \_\_\_\_\_ Unless the LEA and AEA are already knowledgeable about the resolution meeting, the LEA and AEA carefully read all information provided by the Iowa Department of Education about the resolution meeting and the responsibilities of the agencies.
- \_\_\_\_\_ LEA and AEA offer and document that a resolution meeting was offered within 15 calendar days of receiving notice of parent's due process complaint (i.e., hearing) unless all parties (parents, LEA and AEA) agree to an extension of the resolution period. This offer must be made regardless of whether the agencies' intent may have been to use another format for resolving the parent's identified written concerns.
- \_\_\_\_\_ If the LEA, AEA, and parents jointly agree to waive the resolution meeting, this is documented in writing.
- \_\_\_\_\_ The LEA/AEA ask the parents if an attorney will be attending with the parents. If not, the LEA/AEA does not include an attorney at the resolution meeting. If so, the LEA and AEA *may* bring their attorney.

#### **If a resolution meeting was held:**

- \_\_\_\_\_ LEA/AEA convene a meeting with the parents and relevant member or members of IEP Team.
- \_\_\_\_\_ The parents and the LEA/AEA jointly determine the relevant members.
- \_\_\_\_\_ Each relevant IEP Team member has specific knowledge of the facts identified in the due process complaint.
- \_\_\_\_\_ LEA and AEA both have a representative who had decision-making authority on behalf of its agency and has the authority to sign an agreement in order to make the agreement "legally binding."
- \_\_\_\_\_ The parties attempt to resolve the dispute. If an agreement is reached, the parties execute a legally binding agreement that is signed by both the parents and a representative of both the LEA and AEA who have the authority to bind each agency.
- \_\_\_\_\_ All parties are informed that any party has a right to void the resolution agreement within three business days of execution.
- \_\_\_\_\_ An agreement is made regarding all parties' understanding of confidentiality about the resolution meeting.

#### **If applicable:**

- \_\_\_\_\_ If the LEA and AEA argue the parent's complaint was insufficient, the resolution meeting offer is not postponed while waiting for a ruling from the ALJ.

## Q & A Resolution Meeting Tips

1. ***What is the first thing a district and an AEA should do upon receiving notice that a parent has written a due process complaint?***

**Answer:** Most agencies will probably contact their attorney. Offer a resolution meeting to the parent as required by IDEA 2004 as soon as possible. The meeting is to be held within 15 calendar days of receipt of the written notice. IDEA does not allow allowances for difficulties in communicating with parents; therefore, if the parent is not responding there is no excuse not to offer a resolution session within the timeline. The best documentation that the requirement is met is to send a written letter to the parent in the primary language of the parent if it is known the parent is literate. Provide the “why, what, when and where” information. Make certain the parent is given a contact name and telephone number from the LEA (or AEA) if the proposed date, time and location do not work for the parent.

The agency is encouraged to initiate a phone conversation with the parent, if possible, to make certain the letter was received and understood, as well as to get a better understanding about the issues. Ask the parent if an attorney will be attending and discuss possible future actions needed such as mutual agreement on the relevant IEP Team members to attend. Document all phone contacts. Depending on the situation, a representative/s from the LEA/AEA may want to hold a face-to-face meeting with the parent prior to the resolution meeting and may visit in the parent’s home or other site, if the parent is amenable.

The parent should also be made aware of options available in addition to the resolution meeting, although these are only available if the LEA/AEA and parent *jointly* waive the resolution meeting and both *mutually* agree to use mediation or a due process hearing provided by the Iowa Department of Education.

2. ***What does the LEA/AEA do if the parent refuses to participate in a resolution meeting after the offer is made by the agencies and the LEA/AEA does not want to waive the meeting?***

**Answer:** The Office of Special Education Services (OSEP) has made it clear that there are no provisions that allow a parent to unilaterally waive the resolution meeting. The only way it can be waived is when the parent and LEA/AEA jointly agree in writing to waive the meeting or when the parent and LEA/AEA jointly agree to use the mediation process. In other words, the parent is required to meet if the LEA/AEA wants the opportunity to attempt to resolve the due process complaint through the resolution meeting. If the parent fails to participate in the resolution meeting, the agencies would need to continue to make diligent efforts throughout the remainder of the 30-calendar day resolution period to convince the parent to participate in the resolution meeting. If, however, at the end of the 30-day resolution period, the LEA/AEA is still unable to convince the parent to participate in the resolution meeting, OSEP believes that an LEA should be able to seek intervention by an ALJ to dismiss the due process complaint (the hearing).

3. ***Who must attend the resolution meeting?***

**Answer:** The key word in the law reads “relevant” member or members of the IEP Team. It does not specify “the IEP Team.” Relevancy depends on the issue/s identified in the parent’s due process complaint. Probably the most successful resolution meetings will be restrictive in its membership. Remember: all parties must come to an agreement regarding who will attend.

**4. *What if there are circumstances beyond a parent's control (e.g., military service, hospitalization) that may prevent a parent from attending a resolution meeting in person?***

**Answer:** If the parent informs the LEA and AEA in advance of the meeting that circumstances prevent the parent from attending the meeting in person, it would be appropriate for the LEA/AEA to offer alternative means to ensure parent participation, including videoconferences or conference telephone calls, subject to the parent's agreement. There is no authority to permit a court-appointed advocate to attend the resolution meeting in place of a parent, unless the public agency has appointed that individual as a surrogate parent, or the agency determines that the person is a person acting in the place of the parent (in accordance with Sec. 300.30(a)(4)).

**5. *Discussions held during mediations are considered confidential. However, IDEA 2004 is silent regarding confidentiality during resolution meetings. Are resolution meeting discussions confidential or not?***

**Answer:** Because there is nothing in the Act or the IDEA regulations that would prohibit the parties from entering into a confidentiality agreement as part of their resolution agreement, they may do so. However, the LEA and AEA could not require that the participants in a resolution meeting keep the discussions confidential or make a confidentiality agreement a condition of a parent's participation in the resolution meeting.

**6. *What are some suggestions regarding how attorneys may be used?***

**Answer:** If the parent does not have an attorney in attendance at the resolution meeting, neither can the LEA or AEA. However, that does not mean that an attorney cannot be providing guidance "behind the scene," for any party before, during, and after the resolution meeting. In fact, LEAs and AEAs typically will be contacting their attorney/s as soon as the notice for a due process complaint is received. Parents, LEAs, and AEAs may want to have the agreement reviewed before signing or reviewed within three business days if it is signed.

**7. *What if a parent brings an attorney to the resolution meeting without advanced notice?***

**Answer:** The LEA and AEA will need to make a decision whether to continue without their own attorney. The agencies have the option of refusing to hold the meeting at that time but must still adhere to the 15-calendar day period when scheduling another.

**8. *Who should facilitate the resolution meeting?***

**Answer:** The law is silent on that. There is merit in requesting an outside facilitator (or mediator) who is not employed by the LEA/AEA. There are two options available, using the AEA Resolution Facilitator Process: (a) Contact another AEA Resolution Facilitator Coordinator and request a facilitator from that AEA; or (b) Contact Dee Ann Wilson or Rebecca Griglione at the Iowa Department of Education and request a state mediator to serve as a facilitator. A facilitator may enhance the chances of reaching a resolution. The district/AEA could explain to the parent that an impartial person with no stake or interest in the outcome would be helpful with assisting the parties to explore

ways to resolve the identified concerns. If an outside facilitator is going to be used, the parent will need to agree on this person before the resolution meeting is held.

**9. *What are some useful strategies to use to help resolve the due process complaint during the resolution meeting?***

**Answer:** Review the purpose of the resolution meeting. Make certain parties have scheduled an adequate commitment of time that may allow for a resolution but all participants should have an understanding how long the meeting will last. All parties should help establish ground rules. Have an understanding of why the parent filed a complaint. Listen carefully to the parent, and then ask questions if not fully understanding anything being said. Decide if all relevant people are in the room. Don't hesitate to allow any party to contact other people, if necessary, to resolve the complaint. (This could be done via private telephone conversations or even conference calls.) This resolution meeting provides the opportunity for the LEA/AEA to resolve the dispute without going through a time-intensive and costly due process hearing.

**10. *Must the IEP Team reconvene to sanction the decisions agreed to in a resolution meeting?***

**Answer:** Unless the agreement specifically requires that the IEP Team reconvene, there is nothing in the Act or regulations that require the IEP Team to reconvene following a resolution agreement that includes IEP-related matters. The resolution meeting is made up of relevant IEP Team members with the authority to write a legally binding agreement. If the agreement involves IEP-related matters, the IEP will need to be amended to reflect the agreement. Any time changes are made on the IEP, the LEA/AEA must ensure that the child's IEP Team is informed of those changes. A parent must be provided with a revised copy of the IEP with the amendments incorporated.

**11. *What if the resolution meeting is held but the dispute that formed the basis for the due process complaint cannot be settled?***

**Answer:** A due process hearing may occur but the law allows the LEA/AEA a 30-calendar day resolution period (starting from the day the LEA/AEA receives the written due process complaint). Therefore, even if no settlement comes out of the resolution meeting, the LEA/AEA can continue trying to address the parent's issues. This 30-day period may be adjusted if the parties agree in writing that no agreement is possible. A copy of this jointly signed adjustment should be sent to the Iowa Department of Education and then the ALJ will be notified so a hearing can be scheduled.

**12. *It seems there is something about a 45-calendar day timeline for the due process hearing. When does that timeline start?***

**Answer:** The new language specifies that the 45-day timeline for the due process hearing starts the day after one of the following events: (a) both parties agree in writing to waive the resolution meeting; (b) after either the mediation or resolution meeting starts, but before the end of the 30-day resolution period, both parties agree in writing that no agreement is possible; and (c) if both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later the parent or public agency withdraws from the mediation process.



- 13. *If the signed settlement agreement were perceived as having been breached by one party would the other party need to seek enforcement in a State court of competent jurisdiction or district court of the United States?***

**Answer:** The act is clear that exhaustion of administrative remedies is not required. States have the option of allowing resolution agreements and mediation agreements to be enforced through other mechanisms, provided that the other enforcement mechanisms do not operate to deny or delay the right of any party to the agreement to seek enforcement in an appropriate State or Federal court. Refer to the Iowa Administrative Code:

***[41.153(5)]** Failure to comply with due process decision, mediation agreement, resolution meeting agreement. A complainant may allege a public agency has failed to comply with a due process hearing, or a mediation agreement, or a resolution meeting agreement. If the complaint is substantiated, the State will grant appropriate relief.*

If you have questions, contact the Bureau of Student and Family Support Services; Iowa Department of Education: Dee Ann Wilson, 515.281.5766, [DeeAnn.Wilson@iowa.gov](mailto:DeeAnn.Wilson@iowa.gov) or Thomas Mayes, 515.242.5614, [Thomas.Mayes@iowa.gov](mailto:Thomas.Mayes@iowa.gov)).

## State Complaints

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### Right to File a Complaint to the State of Iowa

In addition to the processes for resolving differences previously described in this chapter, an individual or organization may file a complaint to the State of Iowa, alleging that a requirement of IDEA or Iowa *Rules* has been violated. The complaint must allege a violation that occurred not more than **one year** prior to the date the complaint is received. [41.153(3)]

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### Procedures for Filing a Complaint

Procedures for filing a complaint to the State of Iowa:

- The party filing the complaint must forward a copy of the complaint to the AEA and LEA serving the child at the same time they file a complaint with the state [41.153(4)]
  - The Special Education Director or designee should be contacted any time there is a situation in which a dispute or unresolved issue may result in a State complaint
  - If a State complaint is filed, the procedures are directed and carried out by the Iowa Department of Education. State complaint procedures include affording the parties an opportunity to resolve issues and providing for an investigation by the Department of Education.
  - The AEA and LEA will provide all requested information and be prepared to participate in meetings related to resolving the issue(s). If an investigation is conducted, Iowa Department of Education personnel may interview all involved parties to the complaint.
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# Personnel Procedures

## Continuing Education

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### **Continuing Education Opportunities**

Area education agencies are required to have procedures for providing continuing education opportunities. AEAs must meet this requirement through teacher and administrator quality programs as defined in the Iowa Administrative Code 281 Chapter 83. [41.404(2)g]

Administrative Code 281—83.6 addresses professional development for teachers, including both LEA and AEA staff. “Teacher” means an individual holding a practitioner’s license or a statement of professional recognition issued under Iowa Code chapter 272, who is employed in a nonadministrative position by a school district or area education agency pursuant to a contract issued by a board of directors under Iowa Code section 279.13.

Administrative Code 281—83.12 addresses professional development for administrators, including both LEA and AEA staff. “Administrator” or “school leader” means an individual holding a professional administrator license issued under Iowa Code chapter 272, who is employed in a school district administrative position by a school district or area education agency pursuant to a contract issued by a board of directors under Iowa Code section 279.23.

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## Procedures for Monitoring Personnel Caseloads

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### **Overview of Monitoring of AEA and LEA Personnel Caseloads**

Area education agencies are required to have procedures for monitoring the caseloads of LEA and AEA special education personnel to ensure that the IEPs of eligible individuals are able to be fully implemented.

This plan must include procedures for the timely and effective resolution of concerns about caseloads and paraprofessional assistance that have not been resolved at the local district level. [41.407(2)]

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## Procedures for Monitoring AEA Personnel Caseloads

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### **Purpose of Monitoring Caseloads**

The AEA will monitor the caseloads of its own personnel who provide special education services to students as specified in IFSPs and IEPs.

The purpose of monitoring caseloads is to ensure that services documented on the IFSP or IEP can be implemented as described and are sufficient to address the student's needs.

AEA staff, along with the Special Education Director's designee, have the responsibility of monitoring caseloads to ensure that services are delivered as student need and IEP documentation indicate.

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### **Ongoing Caseload Monitoring**

The special education director's designee(s) will establish caseloads annually and make necessary adjustments as warranted by personnel changes, changes in programs or populations and other circumstances.

Each AEA support staff professional is responsible for monitoring his or her own caseloads and to report to the director's designee if circumstances related to caseload could potentially interfere with the timely completion of evaluations or the full implementation of IEPs and IFSPs.

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### **Informal Actions**

AEA support staff professionals and director designees may, at any time, have informal discussions regarding caseload concerns. In both informal discussions and formal caseload reviews, the following will be considered:

- Number of students
- Needs of students
- Type of service required for these students

Geographical size of the assigned caseload as well as other applicable factors will also be given consideration.

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### **What to do When Concerns Are Not Resolved by the Reviewer**

When concerns are not resolved with the above process, the AEA staff member may request further consideration through submission of a written notice of the concern to the Special Education Director's designee.

The written notice should express the specific caseload concern and a suggested or preferred resolution to the concern.

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### **Meet with Employee to Discuss Concern**

Within ten working days after receiving the notice the Special Education Director's designee will meet with the employee to discuss the concern and then submit a written response to the employee.

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**Employee May  
Submit an  
Appeal**

If the employee is dissatisfied with the response, the employee has five working days after receiving the written response from the Special Education Director's designee to submit a written appeal to the AEA Director of Special Education.

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**Director of  
Special  
Education to  
Meet with the  
Employee**

Within ten working days after receiving the appeal, the AEA Director of Special Education shall meet with the employee to discuss the concern and submit a final written decision to the employee.

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# Procedures for Monitoring the Caseloads of LEA Special Educators

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## **LEA Caseload Monitoring Overview**

Special education services are delivered by LEAs according to a plan that is approved for compliance by the AEA Special Education Director and adopted by the LEA board. This plan must include: [41.408(2)]

- A description of how the caseloads of special education teachers will be determined and regularly monitored to ensure that the IEPs of eligible individuals are able to be fully implemented [41.408(2)b(2)]
- A description of the procedures a special education teacher can use to resolve concerns about caseload. The procedures shall specify timelines for the resolution of a concern and identify the person to whom a teacher reports a concern. The procedures shall also identify the person or persons who are responsible for reviewing a concern and rendering a decision, including the specification of any corrective actions [41.408(2)b(3)]

A director may grant an adjusted caseload status for good cause, if an LEA submits a request to the AEA because of class size, including the size of a class served by a teacher employed less than full-time, and exceeds those limits specified in the district's plan. [41.408(2)g]

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## **Districts to Follow Caseload Guidelines**

Districts will follow the caseload guidelines and monitoring systems which they developed and adopted and which were approved by the AEA.

The procedures for monitoring caseloads and timely resolution of concerns are delineated in the plan document.

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## **What to do When Concerns are Not Resolved at the Local District Level**

If an LEA special educator or administrator has concerns that have not been able to be resolved at the local district level, a written request for review should be submitted to the Special Education Director's designee.

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## **Meeting to be Held and Written Response Given**

A meeting will be held with the personnel involved and a written response will be completed within 10 days of the meeting clarifying what action, if any, should be taken.

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**Appeals to the  
Proposed  
Resolution May  
be Made**

If there is dissatisfaction with the resolution proposed by the Special Education Director's designee, the above parties may submit a written appeal to the AEA Director of Special Education.

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**After Appeal,  
Review Must be  
Conducted**

Within ten working days after receiving the appeal, the AEA Director of Special Education shall conduct a review of the information and submit a final written decision to the specified party.

The review process will focus on two questions:

- Did the LEA follow its AEA-approved and board-adopted procedures related to setting and monitoring caseloads and resolving concerns about caseloads?
  - Given the caseloads of the affected special educator(s), are the IEPs of eligible individuals able to be fully implemented?
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## Using Insurance to Pay for Special Education and Related Services

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### **Medicaid and Other Public Insurance Benefits May be Used to Pay for Services**

An AEA or LEA may use Medicaid or other public insurance benefits programs in which a child participates to provide or pay for services required. [41.154(4)a]

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### **Services Required to Provide FAPE and Insurance**

With regard to services required to provide FAPE to an eligible individual, the AEA or LEA: [41.154(4)]

- May not require parents to sign up for or enroll in public insurance programs in order for their child to receive FAPE
  - May not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-payment amount incurred in filing a claim for services but may pay the cost the parent otherwise would be required to pay
  - May not, without paying the cost the parent otherwise would be required to pay, use a child's benefits if that use would:
    - Decrease available lifetime coverage or any other insured benefit
    - Result in the family's paying for services that would otherwise be covered by the insurance program and that are required for the child outside of the time the child is in school
    - Increase premiums or lead to the discontinuation of the insurance
    - Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures
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## Procedures for Claiming Medicaid

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### **Parent/ Guardian Authorization Form**

In order for the AEA and LEAs to claim Medicaid reimbursement for IEP students, the **Parent/Guardian Authorization** form must be signed.

Completed **Parent/Guardian Authorization** forms should be sent to the local AEA office.

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### **New Authorization Form to be Signed When Services Change**

The signed authorization form is valid only for the services in the IEP for which permission is being submitted.

If claimable services are changed or additional claimable services are added to the IEP after the initial consent has been signed, a new consent must be obtained.

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### **Refusal to Consent Does Not Deny Service**

Parents must also be notified as part of the consent request that their refusal to allow access to their public benefits or other insurance does not relieve the AEA or LEA of responsibility to ensure that all required services are provided at no cost to the parents.

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### **Reimbursable Services Must be Described in the IEP**

Reimbursable services must be described in the IEP in two locations:

- In Section B under “Other information essential for the IEP development” place documentation describing the medical necessity of the service
  - In Section F, the exact time and frequency of the service must be documented in the second column. Services may be documented in daily, weekly, or monthly increments. For services that are required but provided on an irregular basis or, only in the event of specific health criteria, it is acceptable to note “per physician’s orders” or “per IHP/IEP”
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### **Providing Agency Must Keep Official Record of Eligible Services Being Delivered**

The providing agency must keep an official record of each eligible service being delivered.

The record must include:

- The name of the student
- The date
- Amount of time required for the service
- A description of the service provided
- The name and title of the person providing the service

Both fiscal and service records must be kept for five years from the date of service.

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## Procedures for Accessing Parents' Private Insurance

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### Informed Consent, Reimbursement of Costs

An AEA or LEA may ask, but not require, parents of children with disabilities to use private insurance proceeds to pay for services if they (the parents) would not incur a financial cost. [41.39(3)]

A public agency may access the parents' private insurance proceeds only if the parents provide consent.

Each time the public agency proposes to access the parents' private insurance proceeds, the agency must:

- (1) Obtain parental consent and
- (2) Inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents. [41.154(5)]

**Note:** A public agency must document parent consent **and** reimburse parents for out-of-pocket expenses even if the parents offer to use their private insurance without being asked.

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### Model Consent Language

Dear (Parents' names)

Valley Trails AEA is responsible for providing special education support services that your child requires at no cost to you. The AEA may ask parents of children with disabilities to use their private insurance to pay for services that the AEA is responsible to provide if this can be done at no cost to the parents. Parents may refuse a request to use their private insurance. If parents refuse a request to use their insurance, the AEA will be responsible for the cost of the service.

Valley Trails AEA is requesting that you use your private insurance to pay for the following service(s):

Describe the service(s) (e.g., occupational therapy evaluation, hearing evaluation, etc.)

Valley Trails AEA will reimburse you for any out-of-pocket expenses related to this service (co-pays, insurance deductibles, transportation to this service, etc.)

I/we, the parent(s) of (student name):

- ☐ **Agree** to give our consent to use our private insurance for this service
- ☐ **Do not agree** to give our consent to use our private insurance for this service

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Parent Signature

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Parent Signature

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# Special Education Records

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## Overview

AEAs and school districts are legally mandated to create and maintain records for students eligible to receive special education services. These records are required to ensure that students receive a free appropriate public education and to demonstrate compliance with federal and state special education laws. Also AEAs and school districts must meet additional requirements relating to accessing, maintaining and destroying special education records.

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## Record Requirements

The federal Family Educational Rights and Privacy Act (FERPA) communicates the fundamental legal requirements related to educational records and the personally identifiable information contained in those records.

All requirements of FERPA are specifically incorporated into IDEA 2004, the special education regulations adopted by the United States Department of Education and Iowa *Administrative Rules*. Special education laws, rules and regulations contain requirements regarding special education records that add to FERPA requirements.

Other laws and *Rules* may impose additional records requirements (e.g., the licensure *Rules* governing the practice of particular professions)

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## Records & Education Records

The requirements of FERPA and IDEA relate to education records and the personally identifiable information contained in those records.

A “record” means any information recorded in any way, including, but not limited to, hand writing, print, computer media, video or audio tape, film, microfilm, and microfiche.

"Education records" means those records that are:

- (1) Directly related to a student; and
- (2) Maintained by an educational agency or institution or by a party acting for the agency or institution.

Education records may include, for example:

- The cumulative file stored in the principal’s or counselor’s office
  - Attendance records in the district’s computer system
  - Free and reduced price meal financial information in the business office
  - Health records in the nursing office
  - Special education records, regardless of their location (e.g., a student’s classroom, in the district’s special education coordinator’s office, etc.)
  - Specialized transportation procedures in the transportation office
  - Special dietary directives in the food service office, and
  - Email messages on the principal’s or teacher’s computer which were sent back and forth between home and school
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**Personally  
Identifiable  
Information**

“Personally identifiable information” is information that contains:

- The name of the child
  - The name of the child’s parent or other family member
  - The address of the child
  - A personal identifier such as social security number, student number, or biometric record (e.g., fingerprints; retina and iris patterns; voiceprints; DNA sequence; facial characteristics; handwriting)
  - Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
  - Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student
  - Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.
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**Sole Possession  
Records that  
Serve Only as  
Personal  
Memory Aids**

The term “education record” does not include records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

**NOTE:** The “sole possession” exception is **very narrow**. The federal Family Policy Compliance Office (FPCO) has regulatory authority regarding FERPA requirements. FPCO has stated “the exclusion of ‘sole possession’ records from the definition of ‘education records’ in FERPA **does not apply to** detailed or comprehensive notes that record specific clinical, educational or other services provided to a student, or that record direct observations or evaluations of student behavior, including a student's success in attaining specified objectives, whether or not these records have been shared with another individual.” Also, once a record or any personally identifiable information that it contains has been revealed to others (incorporated in a report, IEP or other document; shared verbally, by email or any other means with colleagues, parents, the IEP team, or other persons; the “sole possession” exception no longer applies.

Sole possession records are destroyed when no longer needed or after five years.

On occasion, staff may be asked to supply their sole possession records to agencies or individuals. In most cases they are not required to provide their sole possession records unless the record or personally identifiable information in the record has been shared.

Sole possession records are subject to subpoena in certain legal proceedings.

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## Contents and Maintenance of Special Education Records

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### Overview

“Special education records” comprise all information that 1) is recorded in any way, 2) is directly relate to a student, 3) is maintained by the AEA or school, and 4) relates to the evaluation, identification or placement of an eligible individual or the provision of FAPE to an eligible individual.

Special education records **do not include** general education records that are used as sources of information for special education evaluations (e.g., grades, district-wide assessments, disciplinary records, general education progress monitoring data, etc.). Special education records **do include** progress monitoring data collected during an intervention carried out as a part of an evaluation.

A variety of persons may create special education records; principals may send out notices of IEP meetings, teachers may complete progress notes, and speech pathologists and other providers may have records of evaluations and services.

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### School Districts

Local education agencies (LEAs) are responsible for maintaining individual student records for all special education students. AEA support staff shall assist school districts in assuring that records kept are complete and appropriate.

It is recommended that districts maintain special education records separate from the student’s permanent and cumulative student records and in a locked or other secure location. Districts may maintain special education records of currently-served students in a file cabinet or other secure location (e.g., password-protected computer) in a special educator’s classroom or workspace. Regardless of location, care must be taken that the record is maintained in accordance with FERPA, IDEA and Iowa *Rule* requirements, including insuring that only authorized individuals may access the record.

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### AEA Service Providers

AEAs shall maintain special education records related to each student currently receiving special education services from the AEA or school district and shall maintain special education records related to each student who is no longer receiving services, but whose records are still needed

AEA service providers, such as area education agency speech pathologists, occupational and physical therapists, social workers, psychologists, and consultants shall assure that copies of reports of the results of diagnostic evaluations and single support service IEPs are included in the district’s special education record for the student.

AEA support staff will comply with the LEA’s policies regarding collection, maintenance, accessibility, dissemination, and retention of student records.

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## Contents and Maintenance of Special Education Records, cont'd

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### AEA Special Education Records

As noted above, information that 1) is recorded in any way, 2) is directly relate to a student, 3) is maintained by the AEA or school, and 4) relates to the evaluation, identification or placement of an eligible individual or the provision of FAPE to an eligible individual is a special education record.

At a minimum, AEAs shall maintain the following special education records:

- *Parent Consent for/Notice of Evaluation*
- *Educational Evaluation Reports (EERs) and Eligibility Data Worksheet*
- *Meeting Notice (AEA Support-only IEPs)*
- *Consent for Initial Special Education and /o r Related Services*
- *Individualized Education Programs (IEPs)*
- *Prior Written Notices*
- *Early Childhood Outcomes Summary*
- *Extended School Year (ESY) Services*
- *Functional Behavior Assessment (FBA)*
- *Behavior Intervention Plan (BIP)*
- *Manifestation Determination (MD)*
- *Communication Plan for Deaf or Hard-of-Hearing*
- *Agreement to Excuse Attendance at IEP Meeting*
- *Authorization for Exchange of Information*
- *Authorization for the Release of Health and/or Educational Information*
- *Medicaid Parent/Guardian Authorization*
- *Justification for Special School Placement*
- *Assessment protocols*

**Note:** Under Section 504, a student's test protocols are considered "relevant records" to which parents must be afforded access, regardless of whether they are education records within the meaning of the IDEA.

- *Progress or therapy notes (excluding sole possession records)*
- *Any correspondence meeting the definition of a special education record*

Any electronic records (data bases, video recordings, emails, etc.) that meet the definition of a special education record or that contain information derived from any or all of the above records are also considered to be special educational records and will be maintained by the AEA.

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## Confidentiality

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### Confidentiality

School districts and AEAs shall protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.

School districts and AEAs must designate **one** official to assume responsibility for ensuring confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. However, **all** persons collecting or using student records must receive training on maintaining student records in accordance with legal requirements. That includes training support staff as well as professional staff. [41.623]

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### Legitimate Educational Interest

AEAs and schools may allow access to confidential information to district and AEA personnel who have a legitimate educational interest in the information (see **Access to Records by AEA and School District Personnel**, below).

FERPA requires that AEAs and schools use reasonable methods to ensure that district and AEA personnel obtain access to only those education records in which they have legitimate educational interests. FERPA regulations state:

“An educational agency or institution that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement.”

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## Access to Records by Parents and Eligible Students

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### **Parent & Eligible Student Right to Inspect Records**

Parents and eligible student have the right to inspect records. This right includes: (41.613(2))

- The right to a response from the district or AEA to reasonable requests for explanations and interpretations of the records
- The right to request that the district or AEA provide copies of the records if failure to do so would effectively prevent the parent from being able to inspect and review the records, and
- The right to have a representative of the parent inspect and review the records

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### **Parent and Eligible Student Access to Records**

A parent or eligible student shall have access to the student's records during regular business hours of the district or AEA. An eligible student is a student who has reached 18 years of age.

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### **Transfer of Rights**

At age 18, the rights under FERPA transfer from the parents to the student. The student, however, cannot deny parental access to educational information if the parent declares the child as a dependent on his/her income tax return. It shall be presumed that a student who has not graduated from high school is a dependent of his or her parents until such time as satisfactory evidence to the contrary is presented to AEA or school officials.

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### **Right of Access Afforded to Both Parents**

The AEA or school shall assume that both parents have the right of access to student records relating to his or her child unless the AEA or school has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, or divorce. (41.613(3))

The burden of proof is on the parent who asserts that the other parent does not have records rights to provide proof (i.e., the judicial decree) showing the court has removed the other parent's access right. Access includes participation in conferences, obtaining or making copies of records, and reviewing the total student record.

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**Notice of Right  
to Review  
Records**

Annually, the LEA and the AEA shall notify the parent and eligible student of their right to view the student's records. The notice shall be given in a parent's or eligible student's native language. [41.612]

If any education record includes information on more than one child, the parent shall have the right to inspect and review only the information relating to their child or to be informed of that specific information. [41.615]

A fee for copies of records may be charged, but shall be waived if it would prevent the parent or student from exercising the right to inspect and review the records within 45 days of the request. A fee shall not be charged to search for or to retrieve information. [41.617]

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**Parent Request  
for Types and  
Locations of  
Records**

School districts and AEAs must provide parents of students receiving special education, upon request, a list of the types and locations of education records collected, maintained and used by the district or agency. [41.616]

If a parent of a special education student requests this information, the district must identify **all** types of student records collected, maintained and used by the district, not just the special education records.

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**Parent Request  
to Inspect &  
Review Records**

Parents must be permitted to inspect and review any education record relating to their children that are collected, maintained or used by the school district or AEA.

Requests must be granted without unnecessary delay and before any meeting regarding an IEP, or any hearing, or resolution session. In all cases, records review must be allowed no more than 45 days after the request has been made. [41.613(1)]

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**Parent Request  
for Explanation  
& Interpretation  
of Records**

AEAs and school districts must respond to reasonable requests for explanations and interpretations of the records and the personally identifiable information contained in those records. [41.613(2)]

The manner in which an AEA or school district responds to a request will depend on the circumstances, such as the complexity and amount of information requiring explanation or interpretation. A note, email or phone call may be sufficient in some instances. In others, a meeting with the parents may be needed.

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## Disclosures That Require Parent or Eligible Student Consent

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### Written Consent Required

In general, written consent must be given by the parent, legal guardian or eligible students to release student records or disclose the personally identifiable information contained in those records to other persons or agencies.

Written consent must state which records are released, to whom they are released, and the reason for the release.

For exceptions to this general rule, see **Transfer of Records & Disclosure of Information Without Parent Consent**, below.

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### Authorization for Exchange of Information

The *Authorization for Exchange of Information* (see Documentation Guide) is used by most agencies and allows multiple agencies to exchange information.

Agencies providing any type of medical services may be covered under the rules of Health Insurance Portability and Accountability Act (HIPAA). In order to comply with the HIPAA regulations those agencies may require that their release forms be used.

If medical information is needed, an additional release from the medical facility may be required. If acceptable to a medical professional or institution, the *Authorization for the Release of Health and/or Educational Information* (see Documentation Guide) may be used. ***It is advisable to check with the medical professional or institution in advance regarding acceptable disclosure consent documentation.***

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### Disclosure to a Parent Representative Through a Personal Visit

A representative of the parent or eligible student may, with appropriate consent, inspect and review the records. Upon presentation of documented consent and proper identification, a request for information via personal visit shall be honored under the following conditions:

1. The visit is scheduled at a mutually agreed upon time or the AEA or LEA determines it is able to accommodate an unscheduled visit
2. The parent representative is properly identified
3. The purpose of the request is clearly stated
4. The type of information required is expressly stated
5. Prior written consent is given by the parent

**Note:** Any form of written consent meeting these requirements is acceptable. The AEA or school cannot insist upon the *Authorization for Exchange of Information* or other specific form or document.

6. A professional staff member shall be present during the entire in-person visit and be available to interpret the data to the parent representative
  7. A record of the visit shall be made
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**Parental  
Consent:  
NonPublic  
Schools**

IDEA regulations require parental consent before personally identifiable information is released between an LEA (or AEA) where a child resides and an LEA (or AEA) in which an accredited nonpublic school where a child attends is located.

This release of information requirement does not apply if the accredited nonpublic school is located in the same LEA and AEA where the parent resides.

This regulation applies only to students with disabilities.

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**Withholding  
Information**

A reasonable doubt regarding any aspect of a request for records or the personally identifiable information contained in records or a concern about the authorization to process the request shall be deemed sufficient reasons for an AEA staff member to withhold all or part of the information until such time as the question or questions are resolved.

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## **Disclosures That Do Not Require Parent or Eligible Student Consent**

**Disclosure of  
Information  
Without Parent  
Consent**

FERPA and IDEA describe a variety of circumstances when consent is not required to transfer records or disclose personally identifiable information without parental consent. Applications of these principles in special education contexts include:

- AEA and School District Personnel who have a legitimate educational interest in the personally identifiable information contained in records (see **Access to Records by AEA and School District Personnel**, below)
- Transfer of records to a new AEA or school
  - Records may be transferred to an AEA or school “where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student’s enrollment or transfer”

At a minimum, a copy of the most recent evaluation and IEP from the special education record for the student should be sent to the new district and/or area education agency when a student transfers.

If requested by the new district, a copy of the most recent IEP is legally required to be sent.

- Transition from Part C services (services for eligible infants and toddlers, from birth through age 2) to Part B services (services for eligible individuals from age three to 21)
  - Records may be transferred from Part C service providers (AEAs, Departments of Health or Human Services, etc.) to Part B service providers (school districts, AEAs) without parental consent

- Vocational Rehabilitation
    - Vocational Rehabilitation is a part of the Department of Education and K-12 education records may be disclosed to Vocational Rehabilitation without parent or eligible student consent
  - Contractors or others acting on behalf of the AEA or school
    - A contractor, consultant, volunteer, or other party to whom an AEA or school has outsourced services or functions may be considered a “school official” according to FERPA regulations. Such individuals may have access to educational records to the extent necessary to carry out their function for the AEA or school. For example, a contracted physical therapist would have access to the individual educational records needed to provide services.
  - Health & safety emergencies
    - If an AEA or school “determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals.”
  - Child abuse investigations
    - A school district or an area education agency may provide personally identifiable information contained in student records to Department of Human Services investigators or law enforcement officers in conjunction with a child abuse investigation without obtaining parental consent. This rule applies to children of all ages and without regard to whether a child is a child with a disability or is nondisabled. Disclosure is allowed because the Child Abuse Prevention and Treatment Act (CAPTA) requires that schools provide information to child abuse investigators that FERPA would otherwise protect from disclosure.
  - Judicial orders or lawfully issued subpoenas
    - Disclosure of personally identifiable information to law enforcement officers for reasons other than health and safety emergencies or child abuse investigations requires a judicial order or subpoena.
    - Unless a judicial order or subpoena specifies that the parents or age-of-majority student is not to be informed of the disclosure, the parents or age-of-majority student must be informed before records are disclosed in order to afford them the opportunity to take legal action to bar the subpoena or judicial order.
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## Access to Records by AEA and School District Personnel

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### Accessing Confidential Information: AEA and School District Staff

Confidential information may be disclosed, without parental consent, to AEA support staff, school officials, teachers, and others within the AEA or school who have been determined to have legitimate educational interests. FERPA's definition of "school officials" includes contracted service providers (e.g., a contracted physical therapist) who require access to confidential information to carry out their responsibilities.

AEAs and school districts must maintain, for public inspection, a listing of the names and positions of employees who have access to personally identifiable information of students receiving special education.

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### Accessing Confidential Information: Other Persons

A record must be kept of persons who access the special education record, the date, and the purpose for the access.

This record **does not** need to show access by parents, the student, or by those employees who were named on the district's list of employees who have access to personally identifiable information of students receiving special education.  
[41.623]

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## Specific Disclosure Requirements for Disciplinary Records

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### Disciplinary Records

Pursuant to Iowa Code section 279.9A, the state requires that a school district, an AEA or an accredited nonpublic school include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit the statement **to the same extent** that the disciplinary information is included in, and transmitted with, the student records of children without disabilities.

The transmittal shall include an accurate record of any suspension or expulsion actions taken and the basis for those actions taken and any other relevant information. If a child transfers from one school to another, the transmission of any of the child's records must include both the child's current IEP and any statement of current or previous disciplinary action that has been taken against the child.  
[41.229]

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## Amendment of Records

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### Overview

If the parent or eligible student believes the information in the record is inaccurate, misleading or violates the privacy or other rights of the student, the parent or eligible student may request the agency to amend the information.

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### Agency Responsibility

The agency shall decide whether to amend the information in accordance with a request within a reasonable period of time following receipt of the request.

If the agency refuses to amend the records, it shall inform the parent of its refusal and advise the parent of their right to a hearing. The parent or eligible student shall have a right to appeal the agency's decision and shall have an administrative hearing at the agency level.

A local hearing shall be conducted according to the procedures under [41.619] and in accordance with AEA policy and administrative procedures. [41.618]

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### Amendment Decisions

If the agency determines, as a result of a hearing, that an amendment shall be made to the student's records, the agency shall make the amendment and so inform the parent in writing.

If the parent's request to amend the records is denied as a result of a hearing, the parent shall have the opportunity to place an explanatory statement in the student's records commenting on the agency's decision and setting forth any reasons for disagreeing with the agency.

The agency shall maintain the parent's explanation as part of the records of the student as long as the record or contested portion is maintained by the agency. If the record of the student or the contested portion is disclosed by the agency to any party, the explanation shall also be disclosed to the party. [41.620]

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# Destruction of Personally Identifiable Information

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## Overview

Personally identifiable information must be maintained as long as it is needed to provide educational services to the student or to be available for audit (e.g., Medicaid records). Iowa *Administrative Rules of Special Education* specify that special education records must be maintained for five years after special education services end. [41.624(3)]

When personally identifiable information is no longer needed, districts and AEAs may choose to destroy the records.

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## Destruction

*Destruction* means “physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable”. [41.611(1)]

Iowa’s special education electronic databases (IMS and Web IEP) are shared by multiple agencies (district, AEA, Iowa IDEA). Records in these databases are maintained in perpetuity. “Destruction”, in the case of these databases means that a school or AEA relinquishes the right to access the record.

**Example:** District A informs parents and an eligible student, Jeremy, that records will be maintained for five years after graduation and then destroyed. After five years, the district destroys all physical records. After six years Jeremy is enrolling in an institution of higher education and requests records of his disability and the accommodations he was provided. District A informs Jeremy that it has destroyed the paper records and does not have access to the electronic record.

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## Procedures for Destroying Records

AEAs **shall** provide the AEA *Notice of Special Education Records Destruction* to the parents and to a student who is, or will become, age-of-majority within the next five years. School districts **may** provide the LEA *Notice of Special Education Records Destruction* to the parents and to the student.

AEAs will make reasonable efforts to identify all of the special education records of individuals whose records are to be destroyed.

Duplicate records (e.g., a speech pathologist’s copy of an IEP, support staff copy of an EER) may be destroyed at any time **if** an original or copy of the record is maintained until no longer needed.

The notice of records destruction informs parents and eligible students how long records are needed, how long the records will be maintained and that records will then be destroyed. This notice also includes information about the reasons for which parents or eligible student may want the records maintained (social security benefits, etc.).

The *Notice of Special Education Records Destruction* is given to the parents and to a student who is, or will become, age-of-majority within the next five years. Notice is provided when a child exits special education or when the student graduates from high school.



The *Notice of Special Education Records Destruction* informs parent and eligible students of when records are no longer needed and that the records will be destroyed at that time. Parents and eligible students have the right to request that records be destroyed *when no longer needed*. For AEAs, this right applies to the period of time, if any, between the point in time that the AEA has communicated that records are no longer needed and the point in time when actual destruction would occur.

This would be the same circumstance for districts opting to use the *Notice of Special Education Records Destruction*. However, if a school district would ordinarily maintain records after they are no longer needed, parents or eligible students could request that they be destroyed.

---

**Permanent  
Record**

AEAs will maintain only those records required as “permanent” after the point in time when parents and eligible students have been informed that the records are no longer needed. The AEA’s permanent record must include:

- A student's name
- Address
- Phone number
- Date of birth
- Dates of AEA and/or LEA special education service(s)
- Grade or age level and date of final exit from special education service

In the absence of a parent or eligible student's request to destroy the records, the district may maintain the records indefinitely.

School districts are required to maintain a permanent record that serves as a student’s official transcript, including evidence of attendance and educational progress. [12.3(4)]

The school’s permanent record must include:

- A student's name
  - Address
  - Phone number
  - His/her grades
  - Attendance record
  - Classes attended
  - Grade level completed, and year completed
-

# Notice of School District Special Education Records Destruction

Date:        /        /       

Re: \_\_\_\_\_  
Student Name

Birthdate:     /     /

The \_\_\_\_\_ Community School district maintains a permanent record for all students which includes:

- *Basic demographics (name, date of birth, gender, race/ethnicity, disability status, last known telephone number and address), and*
- *Official transcript*
  - Evidence of attendance
  - Grades/marks attained in all courses and all grade levels
  - Dates of enrollment
  - Grade level completed
  - Year completed

The \_\_\_\_\_ Community School district maintains a student's special education records as long as they are needed to provide educational services and for as long as they are needed to be available for audit purposes (at least five years after special education services end). The special education records are then destroyed.

*I/we understand that parents/eligible students:*

- *may request that records be destroyed when they are no longer needed by the school, or*
- *may request that records be released to them when they are no longer needed by the school.*

*We further understand that there may be reasons (e.g., social security documentation) that student records should be maintained.*

I/we understand that \_\_\_\_\_:

Student Name

- *was/will be exited from special education services on:* \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_
- *His/her special education records will be destroyed no earlier than:* \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_
- *No further notice will be given.*

\_\_\_\_\_  
District Representative

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Parent/Guardian/Eligible Student

# Evaluations for Eligibility for Home and Community Based Waivers

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## Overview

AEA school psychologists are occasionally asked by parents and outside agencies to evaluate children's qualifications for Medicaid waiver services.

These services, administered through the Department of Human Services, are designed to assist parents with vital services required in order for them to keep their child with a disability in the home environment as opposed to placing them in an institution.

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## Home and Community Based Services Intellectual Disability Waiver (ID Waiver)

While there are a several categories of eligibility for Medicaid waivers, the most common request received by school psychologists is to provide information relative to a student's eligibility for the "Home and Community Based Services Intellectual Disability Waiver" (ID Waivers).

The school psychologist is asked to write a letter describing the child's level of functioning that will be used by the parent as part of the documentation they will submit to the Iowa Foundation for Medical Care, the entity that determines eligibility.

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## Who Responds to Waiver Requests?

AEA school psychologists will respond to waiver requests.

However, AEAs in Iowa are responsible for providing educational assessments for the purpose of instructional planning, intervention, and monitoring of progress.

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## New Assessment Information

Because AEAs employ a problem-solving approach to the design, implementation, and monitoring of interventions, many of the tests used to make clinical or medical determinations are seldom used, if at all.

New assessment information will be generated only if there is a need to answer educationally related questions or for educational decision-making. AEA school psychologists do not conduct evaluations to answer questions for other agencies as they relate to clinical or medical diagnoses such as mental retardation.

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## Statements of Disability

In cases where current records do not provide the information necessary to determine that the child meets the criteria for mental retardation, the school psychologist will not be able to write a statement of disability. To do so would be unprofessional and unethical practice.

In situations where available information will not allow a judgment to be made about a child's level of functioning, or there is insufficient information to justify a label of mental retardation, parents may choose to seek private sources for the needed information at their own discretion.

## Criteria for Determining Intellectual Disability

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### Purpose of ID Waivers

Home and Community Based Services Intellectual Disability Waiver (ID waivers) require data for the purpose of making the classification of intellectual disability.

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### Intellectual Disability Defined

Information needed in order to make a determination of intellectual disability comes from multiple sources and needs to be considered thoughtfully and professionally.

According to the American Association on Intellectual and Developmental Disabilities (AAIDD), intellectual disability is defined as:

“a disability characterized by significant limitations both in intellectual functioning and in adaptive behavior, which covers many everyday social and practical skills. This disability originates before the age of 18.”

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### Intellectual Functioning Defined

With regard to intellectual functioning, AAIDD indicates::

“One criterion to measure intellectual functioning is an IQ test. Generally, an IQ test score of around 70 or as high as 75 indicates a limitation in intellectual functioning.”

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### Considerations in Test Preparation

Appropriate standardized measures should reflect the individual’s social, linguistic, and cultural background and proper adaptations must be made for any motor or sensory limitation.

Psychometric instruments that assess intelligence are more subject to measurement error for those individuals scoring in either extreme beyond three standard deviations of the mean.

Potential error must be considered as we look at individuals who are already identified or suspected of having significant delay or impairment such that validity of intellectual assessments would immediately be called into question.

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### Adaptive Behavior Defined

According to AAIDD adaptive behavior comprises three skill types:

- Conceptual skills—language and literacy; money, time, and number concepts; and self-direction.
  - Social skills—interpersonal skills, social responsibility, self-esteem, gullibility, naïveté (i.e., wariness), social problem solving, and the ability to follow rules/obey laws and to avoid being victimized.
  - Practical skills—activities of daily living (personal care), occupational skills, healthcare, travel/transportation, schedules/routines, safety, use of money, use of the telephone
-

**Areas of  
Adaptive  
Behavior**

The Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR, 2000) determination of mental retardation also makes note of the need for onset prior to age 18 and sub average general intellectual functioning (an IQ of approximately 70 or below) in conjunction with deficits in at least two areas of adaptive behavior, for example:

- Communication
  - Self-care and home living
  - Social skills
  - Use of community resources
  - Self-direction
  - Functional academic skills
  - Work
  - Leisure
  - Health
  - Safety
- 

**Standard for  
Determining  
Intellectual  
Disability**

Babies with diagnoses such as Down's Syndrome, with a high *likelihood* of delayed development, must still meet the criteria for intellectual disability by showing *actual* significant delay in multiple areas.

Additionally, children considered for a diagnosis of developmental disability will also need to meet the criteria for mental retardation as well. Remember that the standard for determination of intellectual disability is based on the consideration of both significant cognitive and adaptive skill deficits.

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## Procedures for Responding to ID Waiver Requests

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### Overview

When a request for a ID Waiver letter is received, an AEA professional assigned to the school or service should fully explain to the parent or requesting agency the course of events that will take place. It is critical that requests be handled in a timely fashion.

Processing the ID waiver request is a team effort. Typically, several professionals are knowledgeable about referred children or have completed assessments regarding them. It is important that the school psychologist has access to and knowledge of all pertinent records regarding the child's levels of performance.

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### Who Completes the Request for ID Waiver Letter?

The AEA professional is responsible for completing the "Request For ID Waiver Letter" form (see below) to document the different sources of information.

The school psychologist uses this form to guide his/her review of information in order to determine sufficiency of information to make a decision. In short, the more information that is provided on the "Request For ID Waiver Letter" form, the better the picture the school psychologist will have of the entire child.

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### Complete the ID Waiver Checklist

Complete the "ID Waiver Letter Checklist" (see form below)

Whenever there is a request for an ID Waiver, the school psychologist reviews pertinent information and interviews knowledgeable individuals including the parent(s.) The "ID Waiver Letter Checklist" may be used to document the school psychologist's review and guide his or her decision making.

---

### Send a Letter to Parents

Send a letter to the parents from the school psychologist indicating one of the following:

- That sufficient information existed to determine that the child met the criteria for intellectual disability (see sample below)
  - That there was insufficient information to make that determination (see sample below), or
  - That there was sufficient information to determine that the child did not meet the standard for having an intellectual disability (see sample below).
-

## Request for ID Waiver Letter

Please complete this form when requesting the school psychologist to write a letter of disability for a student for the ID Waiver. This information will allow the school psychologist to determine which individuals may have additional information that would be helpful in writing this letter.

Parent Name: \_\_\_\_\_ Today's Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Phone Number(s): \_\_\_\_\_ School: \_\_\_\_\_

Student Name: \_\_\_\_\_ AEA Contact: \_\_\_\_\_

Birth date \_\_\_\_/\_\_\_\_/\_\_\_\_ Date of Application/Letter Due: \_\_\_\_/\_\_\_\_/\_\_\_\_

DHS Release on File?            Yes            No

Check the domains and the location in which there is data to indicate that the child has developmental delays:

	IEP/IFSP	Personal File	N/A	Communication	IFSP/IEP	Personal File	N/A
Fine Motor				Receptive			
Gross Motor				Expressive			
Feeding/ Eating				Academic/ Cognitive			
Self Help				Cause Effect			
Dressing/ Hygiene				Imitation			
Domestic Living				Social Play			
Other:				Other			
Other:				Other			

Indicate which AEA team members are direct service providers and/or provide goal related services to the child/family.

School Social Worker:	Physical Therapist:
Home Interventionist:	Occupational Therapist:
ECSE Consultant:	Speech/Language Pathologist:
Other:	

Please include any other information that would be helpful: \_\_\_\_\_

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## ID Waiver Letter Checklist

Student Name: \_\_\_\_\_

1. \_\_\_\_\_ Have you received the Request for ID Waiver Letter form indicating what information is available from other agencies, team members, etc.?
2. \_\_\_\_\_ Is there a report of a standardized measure of cognitive functioning in the child's file?
3. \_\_\_\_\_ Is there a report of a standardized measure of adaptive functioning in the child's file?
4. \_\_\_\_\_ Have you interviewed the child's parent(s) regarding the child's skills across pertinent domains?
5. \_\_\_\_\_ Have you interviewed the child's teacher(s) regarding the child's skills across pertinent domains?
6. \_\_\_\_\_ Have you interviewed the child's support personnel?
7. \_\_\_\_\_ Does the information available to you from the records review and interviews enable you to make a confident judgment about the child's level of functioning? In part, the information should inform you about the child's level of functioning, discrepancy from typical expectations of children the same age, and the rate of progress the child is making across several domains.



## ID Waiver Letter Template & Sample Letters

Date

Parent's name

Address

Address

Dear Mr. and Mrs. Parent:

Recently you requested a letter regarding your child's disability status to assist you in your application for an ID Waiver. Area Education Agency (AEA) school psychologists review records and interview parents and IEP teams for information regarding your child's current level of functioning. AEA school psychologists do not typically make diagnoses such as intellectual disability, as assessments are specifically designed for the purposes of making instructional decisions regarding your child's educational needs. Historically, we have been able to provide a statement about intellectual disability if the existing records of assessment data provide sufficient information to make such a determination.

Based on the information available, a report regarding Child's status follows.

Summary of information obtained from record reviews and interviews.

- Address both intellectual functioning & adaptive behavior.

Summary statement indicating one of the following:

- (a) there was sufficient information existed to determine that the child met the criteria for intellectual disability;
- (b) there was insufficient information to make the determination that the child met the criteria for intellectual disability; or
- (c) there was sufficient information to determine that the child did not meet the standard for having an intellectual disability

Closing,

Practitioner Name

Title

Agency

Date

Parent's name

Address

Address

Dear Mr. and Mrs. Parent:

Recently you requested a letter regarding your child's disability status to assist you in your application for an ID Waiver. Area Education Agency (AEA) school psychologists review records and interview parents and IEP teams for information regarding your child's current level of functioning. AEA school psychologists do not typically make diagnoses such as intellectual disability, as assessments are specifically designed for the purposes of making instructional decisions regarding your child's educational needs. Historically, we have been able to provide a statement about intellectual disability if the existing records of assessment data provide sufficient information to make such a determination.

Based on the information available, a report regarding Sam Parent's status follows.

Sam is 12 years old and currently receiving his special education program in a self contained special class for mentally disabled students. Sam's IEP goals consist of functional living skills, such as eating, dressing, toileting, recreations/leisure and communication skills. Sam is ambulatory, but has no verbal communications skills and receptively responds to intonation and situational conditions, instead of to specific words. Sam is very active, has no awareness of dangerous situations, and requires constant adult supervision to provide a safe environment.

At this time, due to Sam's behavior, lack of language, and lack of imitation skills, Sam is unable to be tested by standardized intelligence tests. Therefore an IQ score is not available.

Sam's current level of functioning in the areas of intellectual functioning and adaptive behavior places him within the severe to profound range of intellectual disability.

Closing,

Practitioner Name

Title

Agency

Date

Parent's name

Address

Address

Dear Mr. and Mrs. Parent:

Recently you requested a letter regarding your child's disability status to assist you in your application for an ID Waiver. Area Education Agency (AEA) school psychologists review records and interview parents and IEP teams for information regarding your child's current level of functioning. AEA school psychologists do not typically make diagnoses such as intellectual disability, as assessments are specifically designed for the purposes of making instructional decisions regarding your child's educational needs. Historically, we have been able to provide a statement about intellectual disability if the existing records of assessment data provide sufficient information to make such a determination.

Based on the information available, a report regarding Joey Student's status follows.

Joey is currently receiving special education services in a self-contained special class with little integration. Joey has a diagnosis of Down's Syndrome and has received special education services since infancy. In addition to his special education class, he also receives speech therapy.

Joey's recent three-year reevaluation for special education focused on his functional skills within the school environment. Joey continues to need direct instruction either individually or in small group for academics. According to Joey's teacher his skills are approximately at a beginning first grade level, however Joey does not generalize skills to new settings. His strength is in rote learning for reading and written work. He responds well to the structure of his special education class. Joey is also integrated into 2nd grade for social opportunities with same-age peers. Joey's IEP goals are to recognize letters and develop letter-sound correspondence, recognize numerals 1-20 and develop number concepts, increase basic concepts and name common objects and their function.

At this time, there is insufficient information to make the determination that Joey meets or does not meet the criteria for intellectual disability.

Closing,

Practitioner Name

Title

Agency

Date

Parent's name

Address

Address

Dear Mr. and Mrs. Baby:

Recently you requested a letter regarding your child's disability status to assist you in your application for an ID Waiver. Area Education Agency (AEA) school psychologists review records and interview parents and IEP teams for information regarding your child's current level of functioning. AEA school psychologists do not typically make diagnoses such as intellectual disability, as assessments are specifically designed for the purposes of making instructional decisions regarding your child's educational needs. Historically, we have been able to provide a statement about intellectual disability if the existing records of assessment data provide sufficient information to make such a determination.

Based on the information available, a report regarding Betty Baby's status follows.

Betty is currently receiving early intervention services through an Individualized Family Service Plan. Betty was a premature baby, born at 28 weeks. Areas of concern were her prematurity, low birth weight, grade 3 ventricular bleed, feeding tube, heart monitor and development of sensory-motor skills.

Helen Happy, the home intervention teacher administered the Carolina Curriculum for Handicapped Infants and Infants at Risk, 7/1/2005. Betty obtained the following results:

She is beginning to explore objects with fingers at an emerging level. Betty turns her head to sound. Betty is beginning to mouth objects and shake and bang them. She repeats actions to produce a desired result and persists in her efforts. She also responds when vocalized to (turns to name, stops activity, beginning to vocalize).

Overall, Betty's social, communication, cognitive and motor skills are at a 3-6 month level, with many skills emerging along that continuum. Betty is displaying skills expected of an infant her age; she does not meet the criteria for intellectual disability.

Closing,

Practitioner Name

Title

Agency

## Accredited Nonpublic Schools (Private Schools)

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### **Defining Nonpublic Schools (Private Schools)**

Accredited nonpublic schools are private schools, including religious schools, or facilities that meet the accreditation standards of the Iowa Department of Education.

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### **Individuals Eligible for Special Education**

AEAs are responsible to identify eligible individuals who are enrolled in nonpublic schools. Eligible students who are enrolled in a nonpublic school may receive special education or related services from a public agency (AEA or LEA). If a student is eligible for special education services, an IEP is developed and implemented.

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## Placement of Children by Parents in Nonpublic Schools

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### IEPs

The AEA or LEA must offer to develop an IEP for each child with a disability who is enrolled in a private school by the child's parents and develop an IEP if one is requested.

A parent who has voluntarily enrolled their child with a disability in a private school may not reject an IEP and demand a service plan instead.

The AEA or LEA must ensure that a representative of the private school attend the IEP meeting. If a representative is unable to attend the AEA or LEA must use other methods to ensure participation by the private school, such as individual or conference telephone calls.

[41.137(3)]

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### Parents Incur Costs

Most nonpublic school students are enrolled in nonpublic schools by their parents or guardians. LEAs and AEAs are responsible to make FAPE available to eligible individuals enrolled by their parents in nonpublic schools. If an eligible student has FAPE available and the parents choose to place the student in a nonpublic school or facility, the AEA or district is not required to pay for the student's education at the nonpublic school or facility. AEAs and LEAs select the location where FAPE is provided.

Disagreements between a parent and the AEA or district regarding the availability of a program appropriate for an eligible student and the question of financial responsibility are subject to dispute resolution and due process procedures.

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### AEA or District Incur Costs

If the parents of an eligible student, who previously received special education and related services under the authority of an AEA or district, enroll the student in a nonpublic school, preschool, elementary or secondary school without the consent of or referral by the public agency, a court or Administrative Law Judge (ALJ) may require the AEA or district to reimburse the parents for the cost of that enrollment.

Reimbursement could occur if the court or ALJ finds that the agency had not made FAPE available to the student in a timely manner prior to that enrollment and the nonpublic placement.

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### Reimbursement Reduced or Denied

The cost of reimbursement may be reduced or denied:

- If, at the most recent IEP meeting that the parents attended prior to removal of the student from the public school
- The parents did not inform the IEP team that they were rejecting the placement proposed by the public agency to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense
- At least ten business days prior (including any holidays that occur on

business day) to the removal of the eligible individual from the public school, the parents did not give written notice to the AEA or district of the information described in this rule

- If, prior to the parents' removal of the student from the public school, the AEA or district informed the parents, through the notice requirements, of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the individual available for the evaluation
- Upon a judicial finding of unreasonableness with respect to actions taken by the parents

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**Reimbursement  
Not Reduced or  
Denied**

The cost of reimbursement may not be reduced or denied for failure to provide the notice if:

- The parent is illiterate and cannot write in English
- Compliance would likely result in physical or serious emotional harm to the student
- The school prevented the parent from providing notice
- The parents had not received notice of the notice requirements. [41.148]

**Note:** Under a recent decision from the Supreme Court of the United States, prior receipt of special education from a public school is not an absolute requirement for tuition reimbursement under rule 41.148.

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## Referrals and Placement to Private Schools by an AEA or LEA

[41.146, 41.325, 41.413]

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<b>Overview</b>	This section applies only to children with disabilities who are or have been placed in or referred to a private school or facility <b>by a public agency</b> as a means of providing special education and related services.
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<b>Supervising the Facility</b>	The district hosting a private school or facility has responsibility to supervise the facility (e.g., assure appropriate teacher licensure, etc.), the ultimate responsibility for the IEP rests with the sending district.
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<b>IEP Meeting</b>	Before a public agency, typically the resident LEA, places an eligible student in, or refers an eligible student to a nonpublic school, the public agency shall initiate and conduct an IEP meeting to develop an IEP. The public agency shall ensure that a representative of the nonpublic school attends the meeting. If the representative cannot attend, the public agency shall use other methods to ensure participation by a nonpublic school, including individual or conference telephone calls.
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<b>Subsequent IEP Meetings</b>	The public agency and the nonpublic school must agree to which entity will initiate subsequent IEP meetings. If the nonpublic school initiates and conducts these meetings, the public agency shall ensure that the parents and an agency representative are involved in any decision about the student's IEP <b>and agree to any proposed changes before those changes are implemented.</b>
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<b>Responsibilities of the Department of Education</b>	<p>It is the DE's responsibility to assure that a student with a disability who is placed in or referred to a private school or facility by a public agency:</p> <ul style="list-style-type: none"><li>▪ Is provided, at no cost to the parents, special education and related services in conformance with an IEP that meets the requirements of the <i>Rules</i> that meets the standards that apply to the state education agency and LEA, and</li><li>▪ Has all of the rights of a child with a disability who is served by a public agency</li></ul>
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The DE also:

- Monitors compliance through procedures such as written reports, on-site visits, and parent questionnaires
- Disseminates copies of applicable standards to each private school and facility to which a public agency has referred or placed a child with a disability, and
- Provides an opportunity for those private schools and facilities to



participate in the development and revision of state standards that apply to them.

Even if a nonpublic school or facility implements an individual's IEP, responsibility for compliance with the *Iowa Administrative Rules of Special Education* remains with the public agency and the state. [41.146, 41.147]

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**AEA & LEA  
Responsibilities**

Iowa Code makes it the obligation of the AEA and its LEAs to provide services to nonpublic school students with disabilities in the same manner and to the same extent as services provided to public school students with disabilities. [Iowa Code § 256.12]

Neither the AEA nor LEA may provide services to a nonpublic school student that are significantly different than those that would be provided to the same student in a public school. Neither the AEA nor LEA should provide services to a nonpublic student that are not reasonably calculated to provide the same benefit that the student would receive if educated in a public school.

The AEA will provide IEP-directed services on accredited nonpublic school sites. Special education weightings will be determined according to AEA procedures.

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## Child Find for Private School Children with Disabilities

[41.131]

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**Provision for  
Children with  
Disabilities**

The AEA will locate, identify, and evaluate all private school children, including religiously-affiliated school children, who have disabilities and reside in or attend an accredited nonpublic school (including those who reside out-of-state) in the jurisdiction of the local AEA.

To the extent consistent with their number and location in the AEA, provisions must be made for the participation of private school children with disabilities in the program assisted or carried out under Part B of IDEA by providing them with special education and related services.

**Note:** Children who are in competent private instruction (home instruction or enrolled in non-accredited nonpublic “schools”) may be evaluated for special education eligibility, regardless of enrollment status. [Iowa Code § 299A.9]

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## Consultation with Nonpublic School

[41.134, 41.144]

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### Foundations in Iowa Administrative Rules

Iowa *Rules* impose a specific requirement for “timely and meaningful” consultation between school districts and the nonpublic schools within their district. This consultation process forms the backbone of IDEA’s requirements for the use of Part B funds to serve private school students with disabilities.

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### Required Consultation Process

The required consultation process must ensure adequate participation, including an opportunity to make and respond to comments:

- Face-to-face meetings
- Telephone conference calls
- Video conferences, etc.,

The consultation process must also include parents of children with disabilities in:

- Accredited nonpublic schools
- Representatives of the nonpublic schools
- Representatives of attending (not sending) school districts, and
- An AEA representative

This meeting must occur at least annually. This process only concerns Part B funds. Consultation does not occur with non-accredited nonpublic “schools.”

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### Documenting the Consultation Process

After the consultation process, the AEA must obtain a written affirmation that the consultation has occurred, signed by the representatives of participating accredited nonpublic schools. [41.135]

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### Filing Complaints about the Consultation Process

Accredited nonpublic schools may file a complaint with the Iowa Department of Education if it believes the AEA did not:

- Engage in timely and meaningful consultation
- Give due consideration to the views of the authorized representative of the accredited nonpublic school

If the accredited nonpublic school disagrees with the Iowa Department of Education’s determination, it may then appeal to the United States Department of Education. [41.136]

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**Proportionate  
Share  
Calculation**

The Iowa Department of Education will calculate the proportionate share for each AEA based on data provided to the Department.

The consultation process should explain to participants how data are to be gathered and reported. Child find activities will not be counted toward whether the AEA satisfied its proportionate share obligation. [41.131(4), 41.133]

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# Individualized Education Programs (IEPs) and Nonpublic Schools

[41.138]

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<b>Entitled to IEPs</b>	Children with disabilities enrolled in private schools are entitled to the same FAPE that public school children with disabilities would receive (Iowa Code § 256.12).
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Thus, students with disabilities who are placed by their parents in accredited nonpublic schools are entitled to IEPs developed and implemented in accordance with state and federal law.

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<b>Dissatisfied with IEP</b>	Parents who are dissatisfied with the IEPs offered to their children with disabilities who are enrolled in accredited nonpublic schools may use the same procedural safeguards available to all parents of students with disabilities.
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<b>Restrictions to Use of Part B Funds</b>	<p>Federal regulations place several restrictions on the use of Part B funds to provide special education or related services to eligible students placed by their parents in private schools (including religious schools):</p> <ul style="list-style-type: none"><li>▪ Personnel who provide Part B funded special education or related services in accredited nonpublic schools must meet the same standards as personnel employed in public schools; however, elementary and secondary school teachers in accredited nonpublic schools need not meet the highly qualified teacher requirements of IDEA 04</li><li>▪ Special education and related services, including materials, must be secular, neutral and nonideological</li><li>▪ Special education and related services must be provided by an employee of an LEA or AEA, or by contract with the LEA or AEA</li><li>▪ Special education and related services may be provided on the private school site, if consistent with state law. (See Iowa Law requirements in the next section)</li><li>▪ The AEA or LEA must not use Part B funds to finance the existing level of instruction in a private school or to otherwise benefit the private school</li><li>▪ The AEA or LEA must use Part B funds to meet the needs of parentally placed students with disabilities (consistent with the agreement reached after consultation), but must not use Part B funds to meet the needs of the private school or the general needs of the students enrolled in the private school</li><li>▪ LEA or AEA personnel may be used to provide services to eligible individuals enrolled in private schools to the extent necessary to provide equitable services and only if those services are not normally provided by the private school</li><li>▪ The LEA or AEA may use Part B funds to pay for the services of an employee of a private school to provide equitable services only if the employee</li></ul>
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- performs the services outside of his or her regular hours of duty and LEA or AEA supervises and controls the private school employee's services
- An LEA or AEA may not use Part B funds for classes that are organized separately on the basis of school enrollment or religion of the children if the classes are at the same site and the classes include children enrolled in public schools and children enrolled in private schools
  - The LEA or AEA must control and administer funds used to provide services to private school students with disabilities, and must hold title to any real or personal property purchased with such funds
  - The LEA or AEA may place equipment and supplies on private school property while necessary to provide equitable services
  - The LEA or AEA must ensure equipment and supplies are used only for Part B purposes and can be removed from the private school without remodeling the private school facility
  - The LEA or AEA must remove equipment or supplies if no longer needed for Part B purposes or to prevent unauthorized use
  - Part B funds must not be used for repairs, minor remodeling, or construction of private school facilities
  - Services provided to private school children with disabilities may be provided on-site at the child's school, including religiously affiliated schools, to the extent consistent with the law
  - If necessary for the child to benefit from or participate in the services provided under Part B, a parentally placed private school child with a disability must be provided transportation:
    - From the child's school or the child's home to a site other than the private school; and
    - From the service site to the private school, or to the child's home, depending on the timing of services.

LEAs are not required to provide transportation from the child's home to the private school.

Services provided with state and local dollars must meet these conditions (e.g., "secular, neutral, and nonideological"), unless the Iowa Code specifically requires otherwise. [41.138 to 41.139, 41.141 to 41.144, 41.413]

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## State Law Requirements

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### Overview

In 2006, the Iowa Legislature significantly revised Iowa Code section 256.12, concerning where services may be provided to eligible individuals enrolled by their parents in accredited nonpublic schools.

---

### Provided Services

The following services may be provided on the premises of an accredited nonpublic school, with the permission of the “lawful custodian” of the school property:

- Health services
  - Special education support, and related services provided by AEAs for the purpose of identifying children with disabilities
  - Assistance with physical and communication needs of students with physical disabilities
  - Services of an educational interpreter
- 

### Other Services

All other services may be provided on the premises of an accredited nonpublic school “at the discretion of the LEA or AEA provider of the service and with the permission of the lawful custodian of the property.”

Neither the AEA or the LEA nor the accredited nonpublic school is required to agree to provide services on the site of an accredited nonpublic school. Under court cases, however, the AEA or LEA must not abuse its discretion to agree to provide services on the site of the accredited nonpublic school.

Services are not provided to students enrolled in non-accredited nonpublic “schools” unless the student is dual enrolled. [Iowa Code § 299A.8] Services are not provided on the site of a non-accredited nonpublic “school.”

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## Confidentiality

### [41.622(4)]

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**Parental  
Consent**

IDEA regulations require parental consent before personally identifiable information is released between an LEA (or AEA) where a child resides and an LEA (or AEA) in which an accredited nonpublic school where a child attends is located.

This release of information requirement does not apply if the accredited nonpublic school is located in the same LEA and AEA where the parent resides. This regulation applies only to students with disabilities.

---

**Maintaining  
Files**

For students who receive their educational services in programs operated by a public or private agency other than the school district of residence of the parent, the district must maintain files for these students which include contracts for services outside the district (tuition out students) as well as copies of IEPs.

Contracts and IEPs for students accepted from other districts on tuition in basis must also be maintained.

---



**Template for Issues to be Addressed during Private Schools Consultation**

<b>Special Education Services for Parentally Placed Private School Children with Disabilities or Suspected Disabilities</b>		
<b>Provision of Services</b>	<b>Special Education</b>	<b>Related and Support</b>
Types		
How		
Where		
When		

## Affirmation of Consultation

I/We the undersigned representatives of \_\_\_\_\_,  
(Name of accredited nonpublic school)

do hereby affirm that the AEA in which the above nonpublic school is located, as well as the

district in which the above nonpublic school is located, held a consultation with me/us

pursuant to the Individuals with Disabilities Education Act of 2004 on \_\_\_\_/\_\_\_\_/\_\_\_\_.  
(Date)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

## Documentation of Consultation

I/We, the undersigned representatives of the AEA and school district listed below attach

documentation to show the consultation process pursuant to the Individuals with

Disabilities Education Act amendments of 2004 on \_\_\_\_\_ that we  
(Date)

conducted with representatives of \_\_\_\_\_, and further state  
(Name of accredited nonpublic school)

that the representatives of the nonpublic school failed to provide written affirmation of such

consultation within a reasonable period of time.

\_\_\_\_\_  
Printed Name/Employer

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name/Employer

\_\_\_\_\_  
Signature

## Consent to Exchange Personally Identifiable Information:

### Student Enrolled/Enrolling in Accredited Nonpublic School Outside District of Child's Residence

I am a parent of \_\_\_\_\_, a student who is or may be identified as a  
(Name of child)

child with a disability. My child resides in \_\_\_\_\_  
(AEA where child resides)

and in \_\_\_\_\_.  
(LEA where child resides)

I have enrolled or seek to enroll my child in \_\_\_\_\_,  
(Name of accredited nonpublic school)

an accredited non public school located in \_\_\_\_\_  
(AEA where child resides)

and in \_\_\_\_\_.  
(LEA where child resides)

I understand it may be necessary for the AEA and LEA where my child resides and the AEA and LEA where the accredited nonpublic school is located to share personally identifiable information about my child to provide my child with special education and related services (including, but not limited to evaluations for special education eligibility). I understand my consent is required before such sharing of information takes place. I understand I may withhold my consent; however, I understand my refusal to give consent may limit the ability to provide special education and related services to my child.

I voluntarily give my consent to exchanges of personally identifiable information about my child between the AEA and LEA where my child resides and the AEA and LEA where the accredited nonpublic school is located. I understand my consent may be revoked at any time. I understand that I cannot revoke my consent retroactively.

\_\_\_\_\_  
Parent Signature

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date

***Note: Do not use this sample form if the child resides in the same AEA and LEA where the accredited nonpublic school is located. No consent is necessary in that situation.***

## **Notice to Representative of Participating Accredited Nonpublic School**

TO: The authorized representative of a participating nonpublic school

You have engaged in consultation regarding special education and related services with the public school district and area education agency in whose boundaries your accredited nonpublic school is located.

This Notice is to inform you that you have the right to submit a complaint. Submit the complaint to:

Director  
Iowa Department of Education  
Grimes State Office Building  
Des Moines, Iowa 50319-0146

You may file a complaint if you believe that the school district or AEA did not do either or both of the following:

- Engage in timely and meaningful consultation; or
- Give due consideration to your views as the authorized representative of your accredited nonpublic school.

Please state specifically why you believe the district or AEA is non-compliant with either or both of the above points.

## Specialized Evaluations

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### **Specialized Evaluations**

There are several situations in which assessments are completed by professionals or agencies that do not routinely provide services to the student in question:

- The evaluation team needs additional information for planning and decision-making and seeks assessment assistance from specialists or a specialty team within the AEA (e.g., autism team, a vision specialist)
  - The evaluation team needs additional information for planning and decision-making and desires an outside evaluation (e.g., mental health evaluation, a vocational evaluation)
  - The evaluation team cannot come to consensus regarding the appropriate interpretation of evaluation results and desires a second opinion from either an outside resource (e.g., physician, therapist, clinic, etc.) or from other AEA professionals
  - A parent disagrees with an evaluation completed by the AEA and LEA and requests and independent educational evaluation
- 

### **Independent Education Evaluation Defined**

An “Independent Educational Evaluation” is an evaluation conducted by a qualified examiner who is not employed by the AEA or LEA responsible for the education of the child in question. [41.502]

---

### **Parents’ Rights Concerning Independent Evaluations**

A parent has a right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the AEA. The AEA will provide to parents, upon request, information about where an Independent Educational Evaluation may be obtained, and the applicable criteria for the evaluation.

While the AEA may ask the parents’ reason why they object to the public evaluation, parents cannot be required to provide the explanation and the AEA may not unreasonably delay a decision regarding the request.

---

### **Procedures for Handling Independent Evaluations at the Request of a Parent**

Upon receiving a request from the parent the AEA must, without unnecessary delay, either: [41.502(2)]

1. File a due process complaint to request a hearing to show that its evaluation is appropriate. Before taking such action, consultation with the Director of Special Education or designee is recommended. If the final decision is that the AEA’s evaluation is appropriate, the parents still have a right to an independent evaluation, but not at public expense. The results of this independent evaluation, if it meets AEA criteria, must be considered by the IEP team in making appropriate decisions for the child.
  2. Ensure that an independent evaluation is provided at public expense. “Public expense” means that the AEA either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent. A parent is entitled to only one independent evaluation at public expense each time the AEA conducts an evaluation with which the parent disagrees.
-

---

**Procedures for  
Implementing  
the  
Independent  
Evaluation**

The following are recommended steps to implementing the independent educational evaluation: (Refer to the sample form on page 16)

- Confirm that a full and individual evaluation or reevaluation has been completed and the parent(s) disagree with the conclusions or recommendations resulting from that evaluation
  - Discuss the request with the AEA Special Education Director or designee. The reason for the request must be educationally relevant
  - Complete the *Independent Educational Evaluation Request* (IEE) form and submit it to the AEA Special Education Director or designee for approval. Signed authorizations for release and exchange of information are also required
  - Secure the signature of the AEA Special Education Director's designee and submit the form with supporting documentation to the AEA Director of Special Education for final approval. Following approval, a copy will be returned to the team and to the parents
  - Arrange for the evaluation. Typically that might be done by the AEA Special Education Director's designee, in consultation with the IEP team. Whenever an IEE is completed at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the AEA uses when it initiates an evaluation [41.502(5)]
  - Reimburse parents, following the evaluation, for their expenses associated with the evaluation (e.g. travel, meals, lodging, etc.) consistent with AEA policies and procedures related to reimbursements
  - Reimburse the agency or professional who conducted the independent educational evaluation following the receipt of the evaluation report to the AEA. If an evaluation is provided at public expense, and if the evaluation meets agency criteria, the results of the evaluation will be considered by the IEP team. Also, the results may be presented as evidence at a hearing regarding that child. At public expense means that the agency either pays the full cost of the evaluation or ensures that the evaluation is provided at no cost to the parent [41.502(3)]
-

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**Second Opinion  
Evaluations and  
Additional  
Information  
Evaluations and  
Procedures**

Diagnostic evaluations are an important component in meeting the special needs of students with academic and non-academic school-related difficulties. These evaluations are most often completed by the professionals with ongoing responsibilities for a school or geographic area.

Sometimes, the evaluations needed can only be provided by others with specialized expertise. Also, periodically, a difference of opinion arises regarding the process or interpretation of educational evaluations or an evaluation team feels that it needs additional information to support planning and decision-making.

The preferred method of obtaining necessary evaluations and resolving differences of opinion related to the interpretation of evaluation information is to seek an additional evaluation.

The below procedures describe “second opinion” evaluations, but are applied to evaluations when additional information is needed as well.

---

**Complete the  
Second Opinion  
Evaluation  
Request Form**

The IEP team will work with parents of the child to complete the Second Opinion Evaluation Request form. (Refer to the sample form, below)

The request is submitted to the Special Education Director or designee. If a second opinion evaluation is deemed necessary, it shall be conducted by a diagnostic professional or team with appropriate skills related to the questions to be addressed regarding the special needs of the child.

The decision regarding who will conduct a second opinion evaluation is made by the Special Education Director or designee.

---

**Assessment  
Questions  
Created**

Assessment questions are specified by the IEP team to guide the second opinion evaluation.

In designing the assessment questions, the IEP team should consider “What specific questions, if answered, support the development of an appropriate educational program for this student?”

This information assists the second opinion evaluator in considering the IEP team’s current perspective on the issues at hand.

---



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**Who Can  
Provide Second  
Opinion  
Evaluations?**

Second opinion evaluations may be provided by AEA staff, hospitals, clinics, and other diagnostic centers or diagnostic teams.

If the proposed evaluation would be conducted outside the AEA, the team is asked to specify any anticipated expenses and project an estimated cost.

It is necessary that these evaluations be directly related to the educational or classroom needs of the child.

The IEP team, including the parents, must take these evaluation results into consideration whenever placement or program decisions are made.

---

**SECOND OPINION/ADDITIONAL EVALUATION REQUEST**      Date        /        /       

**Student's Name:** \_\_\_\_\_ **Gender:** ☐ M ☐ F **DOB:** \_\_\_\_/\_\_\_\_/\_\_\_\_

Parent's Name: \_\_\_\_\_

**Address:** \_\_\_\_\_ **Home Phone:** \_\_\_\_\_  
(Street) (City or Town) (Zip)

**School:** \_\_\_\_\_ **Grade Level** \_\_\_\_\_

**School District:** \_\_\_\_\_

**School Address:** \_\_\_\_\_

**IEP Team Contact** \_\_\_\_\_ **Teacher:** \_\_\_\_\_

**REASON FOR REQUESTING A SECOND OPINION/ADDITIONAL EVALUATION** Describe the current situation leading to the second opinion request. If there are differences in viewpoints, identify these. Attach additional information if needed.

**ASSESSMENT QUESTIONS** What specific questions, if answered, support the development of an appropriate educational program for this student?

**1.**

**2.**

**3.**

**RELEVANT INFORMATION** (Completed by AEA team with available input from parents and LEA). Given the assessment questions identified above, what is the team's current information base for addressing these same areas of inquiry. [This may call for summary of previous interventions and results, prior evaluation results and conclusions of the IEP team based on the most recent evaluation.] Please attach appropriate reports and other information.

**NOTE:** If the parents are in disagreement with an evaluation, they must be made aware of their right to receive an independent educational evaluation and have agreed to obtain a second opinion. The Area Education Agency will determine the appropriate parties to complete the evaluation.

**Anticipated expenses:** ☐ None ☐ Specify: \_\_\_\_\_

## Second Opinion/Additional Evaluation Approval

\_\_\_\_\_  
Director of Special Education/Designee

\_\_\_\_\_/\_\_\_\_\_  
Date

**Approval for Payment of Expenses:** Estimated total: \_\_\_\_\_

\_\_\_\_\_  
Director of Special Education/Designee

\_\_\_\_\_  
Date

# INDEPENDENT EDUCATIONAL EVALUATION REQUEST

Student's Name \_\_\_\_\_ Sex \_\_\_\_\_ Date \_\_\_\_\_

Parent's Name \_\_\_\_\_ Birth Date \_\_\_\_\_ Grade \_\_\_\_\_

Address \_\_\_\_\_ Home Telephone \_\_\_\_\_  
(Street) (City or Town) (Zip)

School Building \_\_\_\_\_ School District \_\_\_\_\_

Principal \_\_\_\_\_ Teacher \_\_\_\_\_ School Phone \_\_\_\_\_

AEA contact: Name \_\_\_\_\_ Position \_\_\_\_\_ Phone \_\_\_\_\_

**REASONS FOR REQUESTING AN INDEPENDENT EDUCATIONAL EVALUATION** (Completed by AEA team with available input from parents and LEA) Attach additional information if needed.

**ASSESSMENT QUESTIONS:** What specific questions, if answered, support the development of an appropriate educational program for this student and address the parent's concerns for the AEA/LEA evaluation?

1.

2.

3.

**RELEVANT INFORMATION** (Completed by AEA team with available input from parents and LEA.) Given the assessment questions identified above, what is the team's current information base for addressing these same areas of inquiry. [This may call for summary of previous interventions and results, prior evaluation results and conclusions of the IEP team based on the most recent evaluation.] Please attach appropriate reports and other information.

☐ Signed release/exchange of information form (page 2) is attached.

\_\_\_\_\_  
Special Education Director Designee

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date

☐ Outside Agency Copy ☐ AEA Copy ☐ Director of Special Education Copy ☐ Parent Copy

## Special Health Services

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### **Special Health Services 41.405(1)**

Special health services includes, but is not limited to, services to eligible students whose health status (stable or unstable) requires:

- interpretation or intervention
  - administration of health procedures and health care, or
  - use of a health device to compensate for the reduction or loss of a body function
- 

### **Definition: School Health Services**

Health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP.

These services may be provided by:

- qualified school nurse or
  - other qualified person
- 

### **Overview – Eligible Students with Special Health Needs**

Some identified special education students need special health services to participate in an educational program. These students receive special health services as part of their educational programs.

Each district is required to have policies. Each district must use the procedures listed in the AEA Statewide Procedures Manual.

---

### **FERPA/ HIPAA**

Health Insurance Portability and Accountability Act (HIPAA) specifically excludes identifiable health information in “education records” that are subject to the regulations outlined in Family Education Rights and Privacy Act (FERPA.)

Generally, health records in the school are considered education records and protected under FERPA, not HIPAA. When the AEA or district receives health records from a physician these become part of the child's education record and are protected under FERPA.

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# Delivering Special Health Services

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**Nurse Practices** The Nurse Practice Act is found in the Iowa Administrative Code 655—Chapter 6.

Detailed information regarding the provision of special health services to eligible individuals is also found at [http://www.iowa.gov/educate/index.php?option=com\\_content&task=view&id=1729&Itemid=2524](http://www.iowa.gov/educate/index.php?option=com_content&task=view&id=1729&Itemid=2524)

---

**Definition:  
Licensed Health  
Professional  
41.405(1)** According to the definitions in 41.405(1) of the Iowa Administrative Rules of Special Education, special health care services shall be provided by licensed:

- registered nurse
- physician, and other
- authorized health personnel.

Special Health Services are provided in the same setting as educational services and as described in the Individual Health Plan.

---

**Definition:  
Prescriber** Licensed health personnel legally authorized to provide special health services and medications

---

**Definition:  
Qualified  
designated  
personnel** A person instructed supervised and competent in implementing the eligible individual's health plan

---

**Role of Licensed  
Health  
Personnel** Licensed health personnel will:

- supervise the special health services,
- define the level of supervision, and
- document the supervision

---

**Duties of  
Licensed Health  
Personnel** Duties of the licensed health personnel include:

- participating as a member of the IEP team;
- providing the health assessment;
- planning, implementing and evaluating:
  - the written individual health plan,
  - special emergency health services;
- serving as liaison and encouraging participation and communication with health service agencies and individuals providing health care;
- providing health consultation, counseling and instruction in cooperation and conjunction with the prescriber to:
  - the eligible individual,

individual's parent, and staff;

- maintain a record of special health services;
  - reporting unusual circumstances to the parent, school administration, and prescriber;
  - assigning and delegating qualified designated personnel;
  - instructing and supervising qualified designated personnel;
  - providing technical assistance to qualified designated personnel;
  - updating knowledge and skills to meet special health service needs.
- 

**Member of the IEP Team**

The licensed health personnel is a member of the child's IEP team.

---

**Health Assessment**

A health assessment is health data collection, observation, analysis and interpretation relating to the eligible individual's IEP.

Sources of information include, but are not limited to:

- interviews with the student, family and staff
- review of student health record, medical records, and physical examination
- health history
- consultation with other healthcare providers, and
- nursing observations

Parental consent is required when new information is needed to complete the child's IHP.

---

**Planning, implementing and evaluating IHP**

Individual Health Plan (IHP) is the written, ongoing and confidential plan for special health service in the education program.

It includes:

- health assessment
- planning
- implementation
- evaluation
- a plan for emergencies

The plan should be updated as needed, at least annually.

---

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**Planning,  
implementing  
and evaluating  
Special  
Emergency  
Health Services**

Students with life threatening conditions should have an Emergency Health Plan for both individual health needs and for safe student evacuation in case of a disaster.

This plan can either be written in the intervention portion of the IHP or in a separate document referenced in the IHP.

---

**Liaison Role**

Encouraging participation and communication with:

- health service agencies
  - individuals providing health services
- 

**Consultation,  
Counseling and  
Instruction**

Consultation, counseling and instruction will be delivered in cooperation and conjunction with the prescriber to:

- eligible individual
  - individual's parent
  - staff
- 

**Maintaining a  
Record of  
Special Health  
Services**

Providers of special health services must maintain records including documentation of the following:

- the student's name
- special health service
- licensed health personnel
- members of the IEP team as appropriate
- date, time and signature of the provider of the special health service
- any unusual circumstances in the provision of such services

It is suggested that these records be kept in a place that is accessible to the provider of the special health services and the implementers of the Special Emergency Health Plan. This could be the child's cumulative folder or school nurse's files.

---

**Reporting  
Unusual  
Circumstances**

A narrative of each unusual circumstance will be provided to the parent, school administration and prescriber.

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**Assigning and Delegating**

As a member of the child's IEP team licensed health personnel shall determine the:

- special health services to be provided;
- qualifications of the service provider

Primary consideration of the person who will provide the special health service is based on the recommendation of the licensed health personnel. This delegation of personnel considers the child's special health service needs. Rational for this assignment and delegation must be documented.

---

**Instructing and Supervising**

Health instruction is education provided by licensed health personnel to prepare individuals to deliver and perform the eligible individual's special health services as described on the individual's health plan.

Documentation of this instruction shall be on file at school.

Supervision is the assessment, delegation, evaluation and documentation of special health services by licensed health personnel.

Levels of supervision include the licensed health personnel being:

- physically present
  - available at the same site
  - available on call
- 

**Technical Assistance**

Licensed health personnel are to provide technical assistance for qualified designated personnel providing special health services to eligible individuals.

Technical assistance is provided in order to assist qualified designated personnel in the provision of the appropriate special health services detailed in the eligible individual's health plan or IEP.

---

**Updating Knowledge**

Licensed health personnel are to update qualified designated personnel providing special health services to eligible individuals regarding new knowledge pertaining to the child's condition or special health services.

Documentation of updates should be on file at school.

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# Special Health Services for Eligible Individuals

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## Special Health Services for Eligible Individual

In order to determine what special health services are to be provided to an eligible individual the licensed health professional must:

- obtain parental consent for a reevaluation in the area of health;
  - collect and analyze health assessment data;
  - share results of the health assessment analysis with the IEP team;
  - be part of the:
    - discussion regarding the provision of special health services;
    - decision to include a health goal on the IEP, an IHP or both.
- 

## Determining Qualifications for Service Providers

Licensed health personnel, in collaboration with the IEP team, will determine what special education services should be provided to the student and also the qualifications of the individuals who will be providing the service.

The documented rationale for these determinations must include the following:

- analysis and interpretation of:
    - special health service needs,
    - health status stability,
    - complexity of the service,
    - predictability of the service,
    - outcome, and
    - risk of improperly performed service
  - determination of the assignment and delegation based on the eligible individual's needs
  - determination that the special health service is part of the job of the qualified designated personnel
  - review of the competency of the qualified designated personnel
  - determination of initial and ongoing level of supervision required for quality services
- 

## Items to Have on File

The following must be on file before special health services can be provided to a student:

- a written statement by the prescriber (i.e., the licensed health personnel legally authorized to prescribe special health services and medications) detailing the specific method and schedule of the special health service, when indicated
  - a written statement from the student's parent requesting that the service be provided
  - a written report of the preplanning staffing or meeting of the IEP team
  - a written Individual Health Plan that is available in the health record and integrated into the IEP
-

---

**Equipment and  
Supplies**

Parents will provide the usual equipment, supplies and necessary maintenance of the equipment.

The IHP should designate:

- the personnel responsible for the equipment
  - the personnel responsible for storing the equipment in a secure area
  - the role of the school, parents, and others in the provision, supply, storage and maintenance of necessary equipment
-

# Individual Health Plans (IHP)

---

## **Individual Health Plan**

An individual health plan is written documentation of the confidential, preplanned and ongoing special health services in the educational program of a student. It is updated at least annually or as needed. This plan is developed by a group identified by the IEP team and documented in the IEP. This group is to include licensed health personnel and the parents.

An individual health plan contains the following:

- assessment
  - planning and implementation
  - documentation
  - evaluation
  - plan for emergencies
- 

## **Assessment**

The health assessment is health data collection, observation, analysis and interpretation relating to the eligible individual's IEP.

Refer to Health Assessment in the Delivering Special Health Services Section above for further information.

---

## **Planning, Implementation and Documentation**

Planning and implementation of special health services details the delivery of health services.

Provision of the special health services must be documented to include:

- specific health service(s) provided
  - the designated qualified personnel providing the service, and
  - the time, duration and frequency of the service
- 

## **Evaluation**

Evaluation requires ongoing systematic analysis of the student's response to the special health services. Evaluation:

- is done in collaboration with the student, family, special health service provider and licensed health personnel.
  - decisions about IHP modifications, additions, or deletions are based on the data collected during the evaluation.
  - data should include an annual review of the student's current health status and progress toward meeting identified outcomes/goals.
-

---

**Plan for  
Emergencies**

Students with life threatening conditions should have an Emergency Health Plan. This plan can either be written as part of the IHP or in a separate document referenced in the IHP.

A separate plan includes:

- student demographics
  - condition
  - trigger
  - signs of Emergency
  - actions to be taken
  - special instructions for staff need to know
- 

**Individual  
Health Plan  
Team Members**

Members of the team developing the IHP may include:

- the student
  - the parent
  - administrator
  - teacher
  - licensed health personnel
  - members of the IEP team
- 

**Documenting  
the IHP on the  
IEP**

On Page A check “Health Plan”.

On the PLAAFP page, under Health Needs, mark the corresponding box for “Yes, health is a concern and will addressed in the IEP” or “Yes, health is a concern and will be addressed in the health plan” or both.

On Page F, mark Yes (Y) for support or related services. Describe the need for a health plan and identify by position the group of individuals who will be responsible to develop and monitor the health plan and who may revise the health plan.

Always include the parent(s) in this group.

---

**Revising IHP**

Licensed health personnel can revise components of an IHP without reconvening the IHP or IEP team when modifications to the IHP is not within the discretion of the IHP or IEP team (e.g., a change in a prescription or physician’s order). Careful consideration needs to be given to convening a meeting any time revisions affect another professional’s practice.

Communicate any change in required activities (e.g., change in schedule, medication, responsibilities, etc.) to all relevant personnel.

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**IEP Health Goals**

Students who are learning the skills needed to support and maintain their health may have a health goal on the IEP.

Health goals, like other IEP goals, may not be revised without an appropriate team process (amendment or review).

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# Administration of Medication in Schools

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## **Schools Need to Establish Medication Administration Policies and Procedures**

Many children have health conditions that may require use of prescription and/or nonprescription medications. Each school district is responsible for establishing medication administration policies and procedures which must address the requirements listed below. [41.404(3)]

---

## **Who Are Those Qualified to Administer Medications?**

A statement addressing which persons are qualified to administer medication should be in the policies and procedures and should include:

- Authorized practitioners, such as licensed registered nurses and physicians
  - Persons to whom authorized practitioners have delegated the administration of drugs (who have successfully completed a medication administration course)
  - Students who have demonstrated competency in administering their own medications may self-administer their medication
  - Students with airway constricting diseases such as asthma or anaphylaxis who are allowed to carry and administer their own medication. The parent/guardian must provide written permission and obtain written orders from the prescribing physician, replacing the need to demonstrate competency at school.
- 

## **Medication Administration Course and Periodic Updates**

Provision for a medication administration course and periodic updates shall be conducted by a registered nurse or licensed pharmacist.

A medication administration course is offered free online at <http://www.iowaschoolmeds.com>. To complete the Department of Education requirement, medication administration skills must be observed and approved by a licensed health professional who will sign the certificate of completion. A record of course completion must be on file in the district.

---

## **Written Medication Administration Records**

A written medication administration record is to be on file at the school and contain the following:

- Date
  - Student's name
  - Prescriber or person authorizing administration
  - Medication
  - Medication dosage
  - Administration time
  - Administration method
  - Signature and title of the person administering medication
  - Any unusual circumstances
  - Actions or omissions
-

---

**Parent  
Permission for  
Co-  
Administration  
of Medication**

A requirement for a written statement by the parent or guardian requesting the co-administration of medication should be on file.

Students who demonstrate competency may be allowed to administer their own medications if a written statement requesting co-administration from the student's parent is on file.

As noted above, if parent and physician consent is on file, a student may self-administer medication for asthma or other airway constriction diseases without having to demonstrate competency.

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**Written  
Emergency  
Protocol**

Emergency protocols for medication-related reactions must be written and available to staff. However, student names or other identifying information should not be accessible to those without the need to know.

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**Other Items to  
Include in  
Policies and  
Procedures**

The following are to be included in policies and procedures concerning the administration of medication:

- A statement on administration of prescription and non-prescription medication
  - A statement on an individual health plan when administration requires ongoing professional health judgment
  - A requirement that the parent of the student has signed and dated a written statement requesting medication administration at school
  - A statement that medications are to be in the original labeled container either as dispensed or in the manufacturer's container
  - A statement that medication is to be stored in a secured area unless an alternate provision is documented
  - A statement regarding confidentiality of information
-

**PARENTAL AUTHORIZATION AND RELEASE FORM FOR THE  
ADMINISTRATION OF PRESCRIPTION MEDICATION TO STUDENTS**

\_\_\_\_\_  
Student's Name (Last), (First), (Middle)      \_\_\_\_/\_\_\_\_/\_\_\_\_  
Birth date      \_\_\_\_\_  
School

**School medications and health services are administered following these guidelines:**

- Parent has provided a signed, dated authorization to administer medication and/or provide the health service.
- The medication is in the original, labeled container as dispensed or the manufacturer's labeled container.
- The medication label contains the student's name, name of the medication, directions for use, and date.
- Authorization is renewed annually and immediately when the parent notifies the school that changes are necessary.

\_\_\_\_\_  
Medication/Health Care      \_\_\_\_\_  
Dosage      \_\_\_\_\_  
Route      \_\_\_\_\_  
Time at School

**Administration instructions**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Special Directives, Signs to Observe and Side Effects**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Discontinue/Re-Evaluate/Follow-up Date:**      \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Prescriber's Signature      \_\_\_\_/\_\_\_\_/\_\_\_\_  
Date

\_\_\_\_\_  
Prescriber's Address      \_\_\_\_\_  
Emergency Phone

\_\_\_\_\_  
Person administering medication      \_\_\_\_\_  
Title      \_\_\_\_/\_\_\_\_/\_\_\_\_  
Date

I request the above named student carry medication at school and school activities, according to the prescription, instructions, and a written record kept. Special considerations are noted above. The information is confidential except as provided to the Family Education Rights and Privacy Act (FERPA). I agree to coordinate and work with school personnel and prescriber when questions arise. I agree to provide safe delivery of medication and equipment to and from school and to pick up remaining medication and equipment.

**PARENTAL AUTHORIZATION AND RELEASE FORM FOR THE  
ADMINISTRATION OF PRESCRIPTION MEDICATION TO STUDENTS**

\_\_\_\_\_  
Parent's Signature

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date

\_\_\_\_\_  
Parent's Address

\_\_\_\_\_  
Home Phone

\_\_\_\_\_  
Work Phone

\_\_\_\_\_  
Cell Phone

**Additional Information**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Authorization Form**



## Prohibition on Mandatory Medication

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### **Mandatory Medication Prohibited**

No school personnel may require parents to obtain a prescription for medication identified in the Controlled Substances Act as a condition of their child attending school or receiving an evaluation or services.

However teachers and other school personnel are permitted to share with parents or guardians regarding the student's academic and functional performance, and behavior at school. They may also share the need for evaluation for special education or related services. [41.174]

**NOTE:** This rule applies to all children, not just children who are receiving special education services.

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